

CHAPTER 10: GENERAL PROVISIONS

Section

- 10.01 Title of code
- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Construction of code
- 10.05 Rules of interpretation; definitions
- 10.06 Severability
- 10.07 Reference to other sections
- 10.08 Reference to offices; name designations
- 10.09 Errors and omissions
- 10.10 Reasonable time
- 10.11 Repeal or modification of code section
- 10.12 Limitation periods
- 10.13 Ordinances unaffected
- 10.14 Ordinances which amend or supplement code
- 10.15 Section histories; statutory references
- 10.16 Preservation of penalties, offenses, rights and liabilities
- 10.99 General penalty

§ 10.01 TITLE OF CODE.

All ordinances of a permanent and general nature of the town, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the “Fortville Town Code,” for which designation “Code of Ordinances,” “Codified Ordinances” or “Code” may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CONSTRUCTION OF CODE.

(A) This code is a codification of previously existing laws, amendments thereto, and newly enacted laws. Any previously existing law or amendment thereto reenacted by this code shall continue in operation and effect, as if it had not been repealed by this code. All rules and regulations adopted under laws reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

(C) The numerical order and position of sections in this code does not resolve a conflict between two or more sections.

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted. The section most recently enacted supersedes any conflicting section or subsection.

(E) All references within a section of this code to any section of previously existing laws refer to the numbers in the original enactment.

(F) (1) The numerical designations and descriptive headings assigned to the various titles, chapters, subchapters or sections of this code, as originally enacted, or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content. These descriptive headings are for organizational purposes only and do not affect the meaning, application, or construction of the law they precede.

(2) Each note following a section of this code is for reference purposes only, and is not a part of the section.

(G) All references to any section of this code refer to all subsequent amendments to that section, unless otherwise provided.

(I.C. 1-1-1-5)

§ 10.05 RULES OF INTERPRETATION; DEFINITIONS.

(A) Rules of interpretation. This code shall be construed by the following rules unless such construction is plainly repugnant to the legislative intent or context of the provision.

(1) Words and phrases shall be taken in their plain, ordinary, and usual sense. Technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(2) Words imputing joint authority to three or more persons shall be construed as imputing authority to a majority of such persons, unless otherwise declared in the section giving such authority.

(3) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act by an authorized deputy or agent is valid.

(4) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(B) Definitions. For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COUNCIL. The Town Council.

COUNTY. Hancock County, Indiana.

HIGHWAY. Includes bridges, roads, and streets, unless otherwise expressly provided.

MONTH. One calendar month.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms PERSON or WHOEVER as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING and FOLLOWING. When referring to sections or divisions in this code, refer to the sections or divisions next following or next preceding that in which the words occur, unless some other section is designated.

TOWN MANAGER. The Town Manager of the Town of Fortville, Indiana.

TOWNSHIP. The Town of Fortville, Indiana.

WRITTEN and IN WRITING. Include printing, lithographing, or other modes of representing words and letters. Where the written signature of a person is required, the terms mean the proper handwriting of the person, or the person's mark.

YEAR. One calendar year, unless otherwise expressly provided.

(I.C. 1-1-4-5)

§ 10.06 SEVERABILITY.

(A) If any section of this code now enacted or subsequently amended or its application to any person or circumstances is held invalid, the invalidity does not affect other sections that can be given effect without the invalid section or application.

(B) Except in the case of a section or amendment to this code containing a nonseverability provision, each division or part of every section is severable. If any portion or application of a section is held invalid, the invalidity does not affect the remainder of the section unless:

(1) The remainder is so essentially and inseparably connected with and so dependent upon the invalid provision or application that it cannot be presumed that the remainder would have been enacted without the invalid provision or application; or

(2) The remainder is incomplete and incapable of being executed in accordance with the legislative intent without the invalid provision or application.

(C) This section applies to every section of this code regardless of whether a section was enacted before or after the passage of this code.

(I.C. 1-1-1-8)

§ 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in one section, reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.

(A) Reference to offices. Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this municipality exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

(B) Name designations. Whenever any ordinance or resolution of the Council refers to any board, bureau, commission, division, department, officer, agency, authority, or instrumentality of any government, and that name designation is incorrectly stated; or at the time of the effective date of that ordinance or subsequent thereto, the rights, powers, duties, or liabilities placed with that entity are or were transferred to a different entity; then such named board, bureau, commission, department, division, officer, agency, authority or instrumentality, whether correctly named in the ordinance at its

effective date or not, means that correctly named entity, or the entity to which such duties, liabilities, powers, and rights were transferred. (I.C. 1-1-6-1)

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

§ 10.10 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be a Saturday, Sunday, or a state holiday, it shall be excluded.

§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION.

When a section of this code is repealed which repealed a former section or law adopted prior to the enactment of this code, the former section or law is not revived unless it so expressly provides. The repeal of any section shall not extinguish or release any penalty, forfeiture, or liability incurred under such section, unless the repealing section so expressly provides. Such section shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability.

(I.C. 1-1-5-1)

§ 10.12 LIMITATION PERIODS.

The running of any period of limitations or any requirement of notice contained in any law, whether applicable to civil causes or proceedings, or to the prosecution of offenses, or for the recovery of penalties and forfeitures, contained in a law repealed and reenacted by this code shall not be affected by the repeal and reenactment; but all suits, proceedings, and prosecutions for causes arising or acts committed prior to the effective date of this code may be commenced and prosecuted with the same effect as if this code had not been enacted.

Statutory reference:

Periods of limitation, see I.C. 1-1-1-7

§ 10.13 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

§ 10.15 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute.

Example: (I.C. 36-5-2-2) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85)

(2) If a statutory cite is set forth as a “statutory reference” following the text of the section, this indicates that the reader should refer to that statute for further information.

Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

For provisions concerning the inspection of public records, see I.C. 5-14-3-1 et seq.

§ 10.16 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway right-of-ways, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.99 GENERAL PENALTY.

Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$2,500. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

Statutory reference:

Power to prescribe fines up to \$2,500 granted, see I.C. 36-1-3-8(a)(10)

TITLE III: ADMINISTRATION

Chapter

- 30. TOWN COUNCIL
- 31. TOWN OFFICIALS AND POLICIES
- 32. DEPARTMENTS, BOARDS AND COMMISSIONS
- 33. POLICE AND VOLUNTEER FIRE DEPARTMENT
- 34. FINANCE AND TAXATION
- 35. ORDINANCE VIOLATIONS BUREAU

CHAPTER 30: TOWN COUNCIL

Section

- 30.01 Five member Council
- 30.02 Council districts
- 30.03 Residency requirements
- 30.04 President
- 30.05 Quorum and votes to pass
- 30.06 Council powers
- 30.07 Ordinances which amend code
- 30.08 Parliamentary procedure
- 30.09 Recording and publishing ordinances
- 30.10 Compensation of Council
- 30.11 Electronic recording of Council meetings

§ 30.01 FIVE MEMBER COUNCIL.

(A) The Town Council consists of five members.

(B) The three candidates who win Council seats with the highest number of votes in the 1999 Fortville municipal election shall serve a four year term on the Fortville Town Council beginning at noon on January 1, 2000. The other two candidates who win Council seats shall serve a three year term and be subject to re-election in the general election in 2002. In all subsequent elections the winners of all five Council seats shall serve four year terms.

(Am. Ord. 1992-12B, passed 12-22-92; Am. Ord. 1998-9A, passed 10-13-98)

§ 30.02 COUNCIL DISTRICTS.

The Town of Fortville shall consist of three districts for the purposes of electing members of the Town Council members, as follows:

(A) District 1 shall contain all of that territory designated as Precinct F-1 by Hancock County Ordinance and shall elect two members.

(B) District 2 shall contain all of that territory designated as Precinct F-2 by Hancock County Ordinance, and shall elect two members.

(C) District 3 shall contain all of the town and shall elect one at-large member.
(Am. Ord. 1992-12B, passed 12-22-92; Am. Ord. 1994-4A, passed 4-26-94)

Statutory reference:

Composition of districts, see I.C. 36-5-1-10.1;

Division of town into districts, see I.C. 36-5-2-4.1;

Legislative districts, see I.C. 36-5-2-5

§ 30.03 RESIDENCY REQUIREMENTS.

All candidates shall be voted upon and elected by all of the voters of the town, but each candidate and, if elected, each Council member, must reside in the district in which he or she filed for office.

(Am. Ord. 1992-12B, passed 12-22-92)

§ 30.04 PRESIDENT.

(A) The Town Council shall select at its first annual meeting one of its members to be its President for a definite term which may not exceed his or her term of office.

(B) The President is the town executive.

(`87 Code, § 3-4)

Statutory reference:

Selection of a president, see I.C. 36-5-2-7;

Town executive, see I.C. 36-5-2-2

§ 30.05 QUORUM AND VOTES TO PASS.

(A) A majority of all elected members of the Town Council constitutes a quorum.

(B) Passage of ordinances, orders or resolutions shall be governed by applicable state statutes.

(`87 Code, § 3-5)

Statutory reference:

Defining a quorum of the Council, see I.C. 36-5-2-9.2;

Majority, two-thirds and unanimous votes, see I.C. 36-5-2-9.4 through 36-

5-2-9.8

§ 30.06 COUNCIL POWERS.

The Council may:

(A) Adopt ordinances and resolutions for the performance of functions of the town;

(B) Purchase, hold and convey any interest in property for the use of the town;

(C) Adopt and use a common seal; and

(D) Exercise all powers that are needed for the effective operation of local governmental affairs.

(`87 Code, § 3-6)

Statutory reference:

Home Rule powers of municipalities, see I.C. 36-1-3-1 through 36-1-3-9;

Powers of the legislative body, see I.C. 36-5-2-9

§ 30.07 ORDINANCES WHICH AMEND CODE.

All ordinances which are of a general and permanent nature and which would amend the Town Code shall be in the following form:

Ordinance No.

(Year-Chronological number of Ordinance
passed in that calendar year)

(Short Title)

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN

OF FORTVILLE, INDIANA, AMENDING CHAPTER _____,

ARTICLE _____, SECTION(S) _____, OF THE FORTVILLE TOWN

CODE BY THE INCLUSION/DELETION OF SECTION(S)

ENTITLED

WHEREAS, (background statements setting forth the purpose or background of the ordinance)

WHEREAS,

WHEREAS,

WHEREAS,

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORTVILLE, HANCOCK COUNTY, INDIANA, as follows:

SECTION I. Title _____, Chapter _____, Section(s) _____, of the Fortville Town Code is/are hereby amended to read as follows:

(Set forth the particular language)

SECTION . This Ordinance shall be of full force and effect from and after its passage.

Adopted this _____ day of _____, 20_____.

Town Council

Town of Fortville

By:

President

Trustee

ATTEST:

Trustee

Clerk-Treasurer

Trustee

Trustee

('87 Code, § 3-10)

§ 30.08 PARLIAMENTARY PROCEDURE.

Any matter not addressed by any rules of procedure which may be adopted by the Town Council shall be governed by Robert's Rules of Order.

('87 Code, § 3-11)

§ 30.09 RECORDING AND PUBLISHING ORDINANCES.

(A) All ordinances, within a reasonable time after their passage, shall be recorded in a book kept for that purpose by the Clerk-Treasurer.

(B) Any adopted ordinance, order or resolution which must be promulgated or published before it takes effect shall be done pursuant to applicable state statute.

('87 Code, § 3-12)

Statutory reference:

Posting of ordinances in three public places and the publication of ordinances in town code, see

I.C. 36-4-6-14

§ 30.10 COMPENSATION OF COUNCIL.

(A) The Town Council shall, by ordinance, fix the compensation of its own members.

(B) The compensation of an elected town officer may not be changed in the year below the amount fixed for the year 1980.

('87 Code, § 3-13)

Statutory reference:

Compensation for members of the Council and other town officer and employees, see I.C. 36-5-3-2

§ 30.11 ELECTRONIC RECORDING OF COUNCIL MEETINGS.

(A) Electronic recordings shall be made of all discussion, debate and votes of all kinds at each regular and special meeting of the Town Council. Executive sessions of the Town Council shall not be recorded.

(B) Each electronic tape, or other storage device, for each such meeting shall be retained by the Clerk-Treasurer to assist in the preparation of the written minutes of such meeting. Upon approval of the written minutes of such meeting, the electronic tape or other storage device shall be erased. Until such time as the electronic tape or other storage device is either erased or otherwise destroyed, it shall be stored by the Clerk-Treasurer in a safe place. Any person may, during business hours when the Clerk-Treasurer's office is open for business, listen to all, or any part, of any such tape. The Clerk-Treasurer will provide the equipment for the listening, and the Clerk-Treasurer, or the Clerk-Treasurer's employee, shall handle the tape and the equipment. The person desiring to hear the material will be furnished with earphones or speaker, and the Clerk-Treasurer, or an employee of the Clerk-Treasurer, will assist in locating parts of the tape that the person desires to hear.

(C) Nothing in this section shall be interpreted as prohibiting any person from transcribing by electronic tape, or other storage device, any part, or all, of any meeting of the Town Council.

(Res. 2001-3B, passed - -01)

CHAPTER 31: TOWN OFFICIALS

Section

General Provisions

31.01 Town appointments

31.02 Compensation and salary

31.03 Official surety bonds

31.04 Personnel Policies and Procedures Handbook

31.05 Deferred Compensation Plan

Town Clerk-Treasurer

31.20 Terms of office

31.21 Powers and duties

31.22 Compensation

31.23 Deputies and employees

GENERAL PROVISIONS

§ 31.01 TOWN APPOINTMENTS.

(A) The Town Council may employ such persons to effectively carry out the needs and services of the town.

(B) Positions which the Council may appoint include but shall not be limited to the following:

- (1) Town Manager;
- (2) Town Attorney;
- (3) Town Engineer;
- (4) Town Marshal;
- (5) Volunteer Fire Chief;
- (6) Other officers and employees deemed necessary.

(C) Duties shall be set forth for each position by the Town Council and applicable state law.

(⁸⁷ Code, § 2-24)

Statutory reference:

Duties and authorization to appoint a Town Manager, see I.C. 36-5-5-1 through 36-5-5-8

§ 31.02 COMPENSATION AND SALARY.

The Town Council shall fix the compensation or salary of all town employees and officers by appropriate ordinance.

(⁸⁷ Code, § 2-25)

Statutory reference:

Setting of salaries or compensation for employees and officers, see I.C. 36-5-3-2

§ 31.03 OFFICIAL SURETY BONDS.

Individual official surety bonds required by I.C. 5-4-1-18, as it may be amended from time to time, shall be provided by the town. A blanket bond may be obtained to cover the faithful performance of all other employees, commission members and persons acting on behalf of the town so required to be covered.

(⁸⁷ Code, § 2-26)

§ 31.04 PERSONNEL POLICIES AND PROCEDURES HANDBOOK.

(A) There is adopted a Town of Fortville Policies and Procedures Handbook made a part hereof which may be from time to time amended by ordinance of the Town Council of the Town of Fortville meeting in regular or special session. Any amendment to the Policies and Procedures Handbook shall be in writing and adopted by vote of a majority of the Town Council pursuant to written resolution, which shall thereafter be incorporated into the written Policies and Procedures Handbook following its adoption.

(B) The Policies and Procedures Handbook adopted pursuant to this section shall be the exclusive statement of policies and procedures of the Town of Fortville applying to its employees.

(C) Town policy applies to employees of the Town of Fortville, elected officials and members of boards and commissions of the town, unless otherwise provided by applicable law.

(D) Each employee of the Town of Fortville will receive a copy of the Town of Fortville Policies and Procedures Handbook and will acknowledge receipt of same.

(Am. Ord. 2000-12B, passed 12-28-00; Am. Res. 2001-11B, passed 11-13-01)

§ 31.05 DEFERRED COMPENSATION PLAN.

(A) The Town of Fortville Deferred Compensation Plan for the voluntary participation of all eligible employees and elected officials is established.

(B) The town will utilize the state's plan document and its investment options. The town will contract with Indiana Deferred Compensation Plan, Inc. to be the exclusive Servicing Manager and Enroller.

(C) The Fortville Clerk-Treasurer is appointed as the Administrator of the Plan and is authorized to make payroll deductions from the pay of employees who voluntarily participate. The Clerk-Treasurer is further authorized to make other arrangements as are necessary to implement the Plan. It is understood that, other than the incidental expense of collecting the employees' deferrals and other minor administrative matters, there is to be no cost to or contribution by the town to this Plan.

(Am. Ord. 1993-4A, passed 4-13-93)

TOWN CLERK-TREASURER

§ 31.20 TERMS OF OFFICE.

(A) The Town Clerk-Treasurer is an elected position whose term of office is for four years, beginning at noon on January 1 after his or her election and continuing until a successor is elected and qualified.

(B) The Town Clerk-Treasurer shall be elected by the voters of the whole town.

(`87 Code, § 2-1)

Statutory reference:

Term of office, see I.C. 36-5-6-3

§ 31.21 POWERS AND DUTIES.

(A) The Town Clerk-Treasurer may administer oaths, take depositions and take acknowledgments of instruments as required by law.

(B) The Town Clerk-Treasurer may perform all duties prescribed by law, which include but are not limited to the following:

- (1) Receive and care for all town monies and pay them out upon order of the Town Council;
- (2) Keep accounts of all town monies;
- (3) File monthly reports with the Town Council showing all receipts and disbursements of the Town Treasury for the preceding month;
- (4) Maintain records which are open for inspection by the Town Council;
- (5) Collect fines resulting from ordinance violations;
- (6) Issue all licenses; and
- (7) Attend all Town Council meetings and maintain a recording of its proceedings.

(D) The Clerk-Treasurer is both the Town Clerk and Town Fiscal Officer pursuant to I.C. 36-5-6-2.

(`87 Code, § 2-2)

Statutory reference:

Clerk-Treasurer authorized to administer oaths and related powers, see I.C. 36-5-6-5;

Clerk-Treasurer's role to the legislative body, see I.C. 36-5-2-8;

Powers and duties of Clerk-Treasurer, see I.C. 36-5-6-6

§ 31.22 COMPENSATION.

The compensation for the services of the person holding the office of Clerk-Treasurer shall be fixed by the Town Council.

(`87 Code, § 2-3)

Statutory reference:

Compensation of Clerk-Treasurer, see I.C. 36-5-3-2

§ 31.23 DEPUTIES AND EMPLOYEES.

(A) The Clerk-Treasurer may appoint the number of deputies and employees authorized by the Town Council.

(B) Deputies and employees so hired serve at the pleasure of the Clerk-Treasurer.

(`87 Code, § 2-4)

Statutory reference:

Clerk-Treasurer to appoint deputies and employees, see I.C. 36-5-6-7

CHAPTER 32: DEPARTMENTS, BOARDS AND COMMISSIONS

Section

32.01 Boards and Commissions established

32.02 Departments established

32.03 Department of Building Safety

32.04 Department of Parks and Recreation

32.05 Department of Redevelopment

§ 32.01 BOARDS AND COMMISSIONS ESTABLISHED.

The Town of Fortville shall establish such boards and commissions as are deemed necessary by the Town Council to efficiently and effectively carry out the services and functions of the town.

(`87 Code, § 2-45)

§ 32.02 DEPARTMENTS ESTABLISHED.

(A) The Town of Fortville shall establish such departments as are deemed necessary by the Town Council to efficiently and effectively carry out the services and functions of the town.

(B) The following departments are established:

- (1) Department of Building Safety;
- (2) Fortville Sewage Utility Treatment Plant;
- (3) Fortville Water Utility Treatment Plant;
- (4) Department of Parks and Recreation;
- (5) Police Department (Town Marshal);
- (6) Street Department;
- (7) Volunteer Fire Department.

(C) The departments established by this section shall perform the administrative functions assigned to them by statute and ordinance.

(`87 Code, § 2-50) (Ord. 1984-6A, passed 6-12-84; Ord. 1984-7E, passed 7-24-84)

§ 32.03 DEPARTMENT OF BUILDING SAFETY.

(A) There is established the Department of Building Safety, which shall be administered by an executive director.

(B) I.C. 36-7-9 is adopted.

- (C) The Department of Building Safety shall be responsible for the administration of I.C. 36-7-9.
- (D) All provisions of I.C. 36-7-9, including the definition of substantial property interest, are hereby incorporated into this section by reference.

(`87 Code, § 2-51) (Ord. 1984-7E, passed 7-24-84)

Cross reference:

Building regulations, see Ch. 150

§ 32.04 DEPARTMENT OF PARKS AND RECREATION.

(A) There is created the Fortville Department of Parks and Recreation pursuant to I.C. 36-10-3.

(B) The Fortville Department of Parks and Recreation shall have all of the rights, powers and duties as set out in I.C. 36-10-3.

(`87 Code, § 2-52) (Ord. 1984-6A, passed 6-12-84)

Cross reference:

Parks and recreation, see Ch. 91

§ 32.05 DEPARTMENT OF REDEVELOPMENT.

(A) The Town Council now deems it to be in the best interest of the town and its citizens to afford a maximum opportunity for rehabilitation, redevelopment or economic development of areas by private enterprise and the town by establishing a Department of Redevelopment.

(B) The Town Council hereby establishes the Department of Redevelopment. The Department will be controlled by a board of five members known as the Fortville Redevelopment Commission.

(C) Pursuant to the Act, all of the territory within the corporate boundaries of the town will be a taxing district to be known as the Fortville Redevelopment District for the purpose of levying and collecting special benefit taxes for redevelopment and economic development purposes as provided in the Act. The Town Council finds and determines that all of the taxable property within this special taxing district will be considered to be benefited by the redevelopment projects and economic development projects carried out under the Act to the extent of the special taxes levied under the Act. (Ord. 2002-10A, passed 10-22-02)

CHAPTER 33: POLICE AND VOLUNTEER FIRE DEPARTMENT

Section

Police Department

33.01 Town Marshal

33.02 Police reserves

33.03 Police officers

33.04 Marshal Manual

Volunteer Fire Department

33.20 Active volunteer firefighters

33.21 By-laws

33.22 Membership

33.23 Rules governing membership

33.24 Officers

33.25 Elections

33.26 Meetings

- 33.27 Committees
- 33.28 Board of Directors
- 33.29 Charges for certain fire services

POLICE DEPARTMENT

§ 33.01 TOWN MARSHAL.

- (A) Appointment, compensation, tenure of Town Marshal.
 - (1) The Town Council shall appoint a Town Marshal and shall fix his or her compensation.
 - (2) The Town Marshal serves at the pleasure of the Town Council and is subject to the minimum basic training requirements.

(`87 Code, § 2-7)

(B) Powers and duties. The Town Marshal is the Chief Police Officer and has the powers of other law enforcement officers as set forth in I.C. 36-5-7-4, as it may be amended from time to time. (`87 Code, § 2-8)

(C) Deputy Marshals. The Town Council may authorize the appointment of deputy marshals pursuant to I.C. 36-5-7-6, as it may be amended from time to time. Pursuant to I.C. 36-5-7-6, the number of Deputy Town Marshals is fixed at six. (`87 Code, § 2-9)

(D) Marshal residence requirement. The Town Marshal and all Deputy Town Marshals shall reside within the town limits or within 15 miles thereof as measured by the shortest route over existing streets and roads.

(Am. Ord. 1999-6B, passed 6-22-99; Am. Ord. 2000-1A, passed 1-25-00)

Statutory reference:

Authorizing Town Council to appoint a Town Marshal, see I.C. 36-5-7-2;

Compensation of Town Marshal, see I.C. 36-5-3-2;

Tenure, training and removal procedures, see I.C. 36-5-7-3

§ 33.02 POLICE RESERVES.

(A) Police Reserves established. There is established, pursuant to I.C. 36-8-3-20, the Fortville Police Reserve. (`87 Code, § 2-12)

(B) Number of reserves. The number of members of the reserves shall not exceed 15. (`87 Code, § 2-13)
(Ord. 1976-1A, passed 1-27-76)

§ 33.03 POLICE OFFICERS.

- (A) Police employees. Police officers will receive six complimentary days off annually to be taken at their discretion. (`87 Code, § 2-37)

(B) Mileage.

- (1) Town employees who use personal cars for official town business shall be reimbursed for such business mileage which is properly documented and approved by the Town Council.
- (2) All such mileage shall be tendered in writing to the Clerk-Treasurer by listing the dates, odometer readings and purpose of such travel.
- (3) Payment of such mileage shall only be after approval by the Town Council.

(`87 Code, § 2-39)

- (C) Work period established for Deputy Marshals. The work period for Deputy Marshals is set at 24 days.

('87 Code, § 2-40) (Ord. 1985-6A, passed 6-11-85)

§ 33.04 MARSHAL MANUAL.

(A) There is hereby adopted a Town Marshal Manual in the form attached to Resolution 2001-11A, which may be from time to time, amended by resolution of the Town Council meeting in regular or special session. Any amendment to the Marshal Manual shall be in writing and adopted by vote of a majority of the Town Council pursuant to written resolution, which shall thereafter be incorporated into the written Marshal Manual following its adoption.

(B) The Marshal Manual adopted pursuant to the section shall be the exclusive statement of rules and regulations of the town applying to its police department employees.

(C) Town policy applies to public safety employees of the town, elected officials and members of boards and commissions of the town, unless otherwise provided by applicable law.

(D) Each public safety employee of the town will receive a copy of the Marshal Manual and will acknowledge receipt of same.

(Res. 2001-11A, passed 12-11-01)

VOLUNTEER FIRE DEPARTMENT

§ 33.20 ACTIVE VOLUNTEER FIREFIGHTER.

The Town Council shall semi-annually pay compensation, car allowance and clothing allowance for up to 25 active volunteer firefighters, providing such volunteers are certified by the Board of Directors of the Department as having met all of the following requirements:

- (A) (1) Attendance at 33% of each of the following:

- (a) Fire and related alarms;
- (b) Work details;
- (c) Training meetings;

(2) Attendance exceeding the minimum in one category may be used in another category, but no category may be less than 25%. Credit will be given for attendance at a fire or related alarm if the volunteer remains at the station and assists with truck preparation when it returns, although it will not be necessary to remain if the volunteer must return or report to work;

(B) They reside within one mile of the Fortville town limits or work full time in Fortville at a job they may leave for alarms;

(C) They have taken and passed a physical examination during the last two years or more often, if required by the Board of Directors;

(D) They are less than 60 years of age;

(E) They have acquired and maintained an acceptable level of proficiency and knowledge of fire fighting practices, as determined by the Board of Directors.

('87 Code, § 2-19) (Ord. 1971-9A, passed 9-28-71)

§ 33.21 BY-LAWS.

The following by-laws are created for the establishment of good government and sound administration of this Department.

(A) All articles to be accepted will require a majority vote of members present at a regular meeting.

(B) The by-laws and all additions to the by-laws will be presented to the Town Council of Fortville, Indiana for their approval.

(C) Any amendments to these by-laws or additions to these by-laws will require a two-thirds vote of the members present at the regular May by-laws meeting. ('87 Code, § 2-20)

§ 33.22 MEMBERSHIP.

Membership of this Department shall be divided into three types: active, associate and probationary trainee.

(A) The membership of this Department shall be limited to 25 active members and as many probationary trainees as deemed necessary by the Board of Directors.

(1) Active firefighters shall have full voting rights and will be eligible to hold elective offices in this Department.

(2) To remain active, members must meet the following requirements:

(a) Attendance at 33% of each of the following:

1. Fire and related alarms;
2. Work details;
3. Training meetings;
4. Attendance exceeding the minimum in one category

may be used in another category, but no category may be less than 25%. Credit will be given for attendance at a fire or related alarm if the volunteer remains at the station and assists with truck preparation when it returns, although it will not be necessary to remain if the volunteer must return or report to work;

(b) That they reside within one mile of the Fortville city limits or work full time in Fortville at a job they may leave for alarms;

(c) That they have taken and passed a physical examination during the last two years or more often, if required by the Board of Directors.

(d) That they are less than 60 years of age;

(e) That they have acquired and maintained an acceptable level of proficiency and knowledge of firefighting practices, as determined by the Board of Directors;

(f) All members will work together in harmony and strive for the betterment of the Department;

(g) To respond to all fire alarms and calls of the Chief or his or her assistants as far as possible;

(h) To assist in keeping the Department building and all of the equipment clean and in good operating condition;

(3) Excusable reasons for not participating will be sickness, death in family, working schedules, vacations or others approved by the Board of Directors.

(4) Active members reaching 60 years of age will retire from active membership, effective the last day of the sixth month compensation period in which their sixtieth birthday falls.

(B) Associate members are those active members who have chosen to become inactive in Department functions or those who can no longer serve as active members due

to circumstances such as (but not limited to) illness, physical handicaps, military duty or working handicaps.

(1) Associate members may attend all meetings and be active in all Department functions other than actual firefighting.

(2) Associate members will not have voting powers, but will have a floor voice at all business meetings.

(3) Associate members will be eligible for appointed office such as committee chairmen and the like.

(4) Associate members shall be known as active firefighters upon the direction and by being declared so by the ranking officer in charge at a fire.

(5) Associate members may become active members in the event of an active membership vacancy if approved by the majority of members present at a regular meeting.

(6) When active members go associate, they will be compensated for the entire six month compensation period.

(7) When active members go associate they will remain as associate members either indefinitely or until a request is heard from said member to be deleted from the associate membership roll.

(C) Probationary trainees will be those who have made application, on the prescribed forms, and have been accepted by the majority of the active members present at a regular meeting. Applicants shall not be present on the day of voting on their membership. The vote will be by secret ballot.

(1) To be eligible for application, the applicant must be between the ages of 18 and 40, of sound mind and physically fit and a resident of the Town of Fortville, Indiana or reside within one mile of Fortville city limits or work full-time at a job in Fortville which they may leave for fire alarms.

(a) All applicants under 21 years of age must submit a notarized statement of permission by parent or guardian.

(b) Applicants 21 or older will be shown preference.

(c) All applicants must have a high school education or equivalent.

(2) All applicants must furnish a statement of physical fitness signed by a licensed M.D. to meet Fire Department standards.

(3) Probationary trainees will be required to participate in a nine month training program covering various phases of firefighting and first aid practice. He or she will then be eligible for an active membership vote whenever a vacancy occurs. Probationary trainees must be 21 years of age in order to be eligible for active membership.

(4) Probationary trainees may attend all business meetings and Department functions. They will not have voting rights but will have a floor voice.

(5) In the event of two or more trainees becoming eligible for an active membership vote, the one showing the greatest amount of interest such as regular attendance and willingness to learn and participate will be considered first.

('87 Code, Ch. 2, Art. I)

§ 33.23 RULES GOVERNING MEMBERSHIP.

Any member who fails to do the duties prescribed for members shall forfeit their right to membership of the Department.

(A) Acts of insubordination and/or defamation of the Department shall be controlled by the Board of Directors.

(B) Whenever the Board of Directors, after just consideration, vote to terminate a member, they must present their claims at a regular business meeting. The member shall have the right to be heard. After all discussion by the Board of Directors and the said member, in front of all members present at a regularly scheduled meeting when it will be voted upon by all members present in the absence of the said member.

(` 87 Code, Ch. 2, Art. II)

§ 33.24 OFFICERS.

Officers of this Department shall include Chief, First Assistant Chief, Second Assistant Chief, First Lieutenant, Second Lieutenant, EMS Lieutenant, Secretary and Treasurer.

(A) The Chief shall be the executive officer of the Department in complete charge of all fires, meetings and functions.

(B) The First Assistant Chief will be superior to the Second Assistant Chief and will be in command in the absence of the Chief.

(C) The Second Assistant Chief will be in command in the absence of the Chief or the First Assistant Chief.

(D) The First Lieutenant will be superior to the Second Lieutenant and will be in command in the absence of the superior officers.

(E) The Second Lieutenant will be in command in the absence of superior officers.

(F) The EMS Lieutenant will be a certified EMT of the Department in command of Department EMS operations and will answer directly to the highest ranking officer present. This position devotes itself toward the safety of the fire scene, rescue efforts at the fire scene, Department EMS operations and responsibilities, including EMS training, and therefore has no rank in fire suppression activities.

(1) The EMS Lieutenant will act as the first assistant to the highest ranking officer in charge of the scene in matters relative to EMS operations.

(2) The EMS Lieutenant will hold no other elected office.

(G) The Secretary and/or Treasurer shall keep minutes of meetings, handle correspondence, disperse all monies and maintain an accurate bookkeeping system. All checks will be signed by the Treasurer.

(H) Any member who has been in active membership in good standing for at least the 12 month period prior to elections will be eligible for nomination and election to any office, with the exception of Chief. The Chief must be chosen from the roll of officers who have served during the preceding four years.

(I) All terms of office will run from January 1 until December 31.

(J) The training officers will be appointed by the Chief.

(K) In the event a vacancy occurs in the ranks of the elected officers, a special election shall be held to fill the vacancy at the next regularly scheduled meeting after the vacancy occurs, with majority rules prevailing. Nominations will be open from the floor.

(L) Any office with no nominees will be filled by appointment from the newly elected Board of Directors for the upcoming year.

('87 Code, Ch. 2, Art. III)

§ 33.25 ELECTIONS.

- (A) Nominations will be held at the regular November business meeting.
- (B) Voting on the nominations will be at the regular December business meeting.
- (C) The election of officers will be conducted by active members of the Department who may or may not vote at their discretion.
- (D) All officers shall be elected by secret ballot, majority will rule.

('87 Code, Ch. 2, Art. IV)

§ 33.26 MEETINGS.

- (A) There shall be at least one business meeting each month and as many training meetings as deemed necessary by the Training Officer.
- (B) The regular business meeting shall be on the first Sunday of each month at 1:00 p.m.
- (C) Called meetings shall be at the discretion of the Chief or his or her assistants.
- (D) Parliamentary procedure shall rule at all meetings.
- (E) There will be no monetary dues or assessments levied.
- (F) Any changes in the by-laws will be put in the form of a written motion presented at the April meeting and voted on at the May meeting. The motions shall be posted in the fire station, by the Secretary, for the perusal of the membership between the April and May meetings.

('87 Code, Ch. 2, Art. V)

§ 33.27 COMMITTEES.

There will be one standing committee.

- (A) A Membership Investigating Committee consisting of the Second Assistant Chief and two unknown active members appointed by the Chief and the Second Assistant Chief shall investigate prospective members and present their findings at the time of the vote.
- (B) The Chief will be a member of all committees and appoint all committees.

('87 Code, Ch. Art. VI)

§ 33.28 BOARD OF DIRECTORS.

- (A) The Board of Directors will consist of all elected officers, headed by the Chief.
- (B) The Board of Directors will govern Department procedure and policy.

('87 Code, Ch. 2, Art. VII)

§ 33.29 CHARGES FOR CERTAIN FIRE SERVICES.

The following charges shall be made for services rendered by the Fortville Fire Department, unless the property is located within the town limits, within a township with which the town has a contract or within a county with which the town has a mutual aid agreement:

- (A) For initial response with a fire engine, a fire truck or a fire apparatus, including a hazardous material response unit, or a fire rescue unit dispatched on a fire or hazardous material incident, \$250 per response vehicle except a command/control vehicle, which is \$100 per vehicle;

(B) For each hour or fraction thereof of on-scene assistance, \$150 per response unit and \$50 per command/control vehicle;

(C) For expendable materials such as absorption materials, emulsifiers or other agents used in cleanup operations, the actual replacement cost of those materials;

(D) For collection of debris, chemicals, fuel or contaminated materials resulting from a spill, the actual cost of removal and disposal at an authorized location.

(Am. Ord. 1993-1B, passed 1-12-93)

CHAPTER 34: FINANCE AND TAXATION

Section

General Provisions

34.01 Purchasing agents

34.02 Bidding procedure

34.03 Town membership and interlocal cooperation

Funds Established

34.20 Cumulative Capital Improvement Fund

34.21 Motor Vehicle Highway Fund (MVH)

34.22 Accident Report Account

34.23 Firearms Training Fund

34.24 Federal Revenue Sharing Trust Fund

34.25 Local Road and Street Fund (LRS)

34.26 K-9 Fund

34.27 Rainy Day Fund

GENERAL PROVISIONS

§ 34.01 PURCHASING AGENTS.

The Town Manager is designated as the purchasing agent of the town. The Town Manager may authorize other town employees to act on his or her behalf. The purchasing agent is authorized to make purchases under \$25,000 that are within the budget, but subject to the final approval of the Town Council.

(Ord. 1998-6A, passed 6-23-98)

§ 34.02 BIDDING PROCEDURE.

The Town Council may permit the withdrawal of inadvertently erroneous bids before or after award.

(Or. 1998-6A, passed 6-23-98)

§ 34.03 TOWN MEMBERSHIP AND INTERLOCAL COOPERATION.

(A) Payment of dues for town memberships.

(1) The Town Council is authorized to budget and appropriate funds to provide membership for the Town of Fortville, its elected and appointed officials and its boards, departments or agencies in local, regional, state or national associations of a civic, educational or governmental nature which have as their purpose the betterment and improvement of municipal operations.

(2) The Town Council is authorized to budget and appropriate funds to pay the expenses of duly authorized representatives to attend the meetings and functions of organizations to which the town belongs.

(87 Code, § 2-69)

(B) Interlocal cooperation. The town is authorized pursuant to I.C. 36-1-7-1 through 36-1-7-12, as it may be amended from time to time, to enter into joint

agreements for the purchase or exchange of property and services with other governmental bodies. (87 Code, § 2-70)

FUNDS ESTABLISHED

§ 34.20 CUMULATIVE CAPITAL IMPROVEMENT FUND.

(A) Fund established. The Cumulative Capital Improvement Fund is established.

(B) Purpose. This special fund is established for the purpose of receiving cigarette taxes allocated to the town pursuant to applicable state law and the funds shall not revert to the General Fund.

(87 Code, § 2-56)

Statutory reference:

Cumulative funds and cumulative capital improvement funds, see I.C. 6-7-1-30.1 and 6-7-1-31.1

§ 34.21 MOTOR VEHICLE HIGHWAY FUND (MVH).

The Motor Vehicle Highway Fund is established for the purpose of receiving applicable state funds and for expenditures permitted by statute.

(87 Code, § 2-57)

§ 34.22 ACCIDENT REPORT ACCOUNT.

(A) There is created an Accident Report Account for the Fortville Police Department. A fee of \$5 shall be charged for each report.

(B) The source of funds which are to be deposited into the Fund are the fees received for accident reports and information under I.C. 9-29-11-1.

(C) This Fund is to be used at the discretion of the Town Marshal for any Department purpose reasonably related to the keeping of accident reports and records for the prevention of street and highway accidents.

(D) The rules for proper accounting and expenditure of monies collected and deposited into the Fund shall be those established by the State Board of Accounts.

(87 Code, § 2-58)

Statutory reference:

Authorizing a Police Department to charge a fee fixed by ordinance in an amount of not less than

\$3 for each report, see I.C. 9-3-1-3

§ 34.23 FIREARMS TRAINING FUND.

(A) A Firearms Training Fund is established for the Fortville Police Department.

(B) The source of funds which are to be deposited into this Fund are the application fees collected for licenses to carry handguns under I.C. 35-47-2-3.

(C) This fund is to be used by the Fortville Police Department and used exclusively for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties.

(D) The rules for proper accounting and expenditure of monies collected and deposited into the Fund shall be those established by the State Board of Accounts.

(87 Code, § 2-59)

§ 34.24 FEDERAL REVENUE SHARING TRUST FUND.

The Federal Revenue Sharing Trust Fund is established for the purposes of receiving such federal monies and the proper disbursement of such funds thereafter.

(`87 Code, § 2-60)

§ 34.25 LOCAL ROAD AND STREET FUND (LRS).

The Local Road and Street Fund (LRS) is established for the purpose of receiving applicable state funds and for expenditures permitted by statute.

(`87 Code, § 2-61)

§ 34.26 K-9 FUND.

(A) The town establishes the K-9 Fund as a subaccount within the Department's budget.

(B) The Town Marshal is authorized to expend up to \$500 of the Department's K-9 Fund in the manner he or she deems most appropriate to accomplish the goals and objectives of the Unit without the necessity of obtaining the approval of the Council.

(C) The Town Marshal is further authorized to expend in excess of \$500 of the Department's K-9 Fund in the manner he or she deems most appropriate to accomplish the goals and objectives of the Unit with the approval of the Council.

(Res. 2001-7, passed 7-24-01)

§ 34.27 RAINY DAY FUND.

(A) Creation. There is hereby established a Rainy Day Fund to receive transfers of unused and unencumbered funds raised by a general or special tax levy on taxable property within the town whenever the purpose of such tax levy has been fulfilled and an unused and unencumbered balance remains.

(B) Purpose. The funds on deposit in the Rainy Day Fund may be used for the operation of the town and its various departments, when the town does not have sufficient levies or funds to pay such costs, including, but not limited to, salaries and wages, costs of services, supplies, equipment, capital improvements, repairs and similar expenditures.

(C) Transfer. On or before December 31 of each year, the Town Council shall determine the amount, if any, of any unused and unencumbered funds available to be transferred to the Rainy Day Fund, which transfer may not exceed more than 10% of the town's total budget for that fiscal year.

(D) Appropriations. The Town Council may authorize the expenditure of funds from the Rainy Day Fund by appropriations made in the same manner as other funds are appropriated that receive tax monies, upon making a finding that the proposed use of the funds is consistent with the intent of the fund.

(Ord. 2002-8A, passed - -02)

CHAPTER 35: ORDINANCE VIOLATIONS BUREAU

Section

35.01 Ordinance Violations Bureau

§ 35.01 ORDINANCE VIOLATIONS BUREAU.

(A) A person who has been cited for violating one of the ordinances designated by Council may pay the amount designated by Council from time to time to the Fortville Violations Bureau.

(B) Failure to pay the penalty within five business days will result in an action brought by the town to collect such greater penalties as are permitted by the ordinance that is violated.

(C) The schedule of fines for this schedule is adopted by reference and made a part hereof.

(Ord. 1998-4C, passed 5-12-98; Am. Ord. 2000-4C, passed 4-25-00; Am. Ord. 2000-10A, passed 10-10-00)

TITLE V: PUBLIC WORKS

Chapter

- 50. GENERAL UTILITIES
- 51. WATER SERVICE
- 52. SEWER SERVICE

CHAPTER 50: GENERAL UTILITIES

Section

- 50.01 Authority to establish service
- 50.02 Authority to establish water works
- 50.03 Authority to regulate the disposal of sanitary sewage
- 50.04 Contract addressing collecting and disposing of garbage
- 50.05 Summer sprinkling credit of new homeowners
- 50.06 Collection of capacity and connection fees

§ 50.01 AUTHORITY TO ESTABLISH SERVICE.

A town may furnish or regulate the furnishing of utility service to the public.

(`87 Code, § 9-1)

Statutory reference:

Utility service to the public, see I.C. 36-9-2-15

§ 50.02 AUTHORITY TO ESTABLISH WATER WORKS.

A town may regulate the furnishing of water to the public and may establish, maintain and operate waterworks.

(`87 Code, § 9-2)

Statutory reference:

Water works, see I.C. 36-9-2-14

§ 50.03 AUTHORITY TO REGULATE THE DISPOSAL OF SANITARY SEWAGE.

(A) A town may regulate the furnishing of the service of collecting, processing and disposing of waste substances and domestic or sanitary sewage, which includes the power to fix the price to be charged for that service.

(B) A town may collect, process and dispose of waste substances and domestic or sanitary sewage and may establish, maintain and operate sewers, sewage disposal systems and systems to collect and dispose of waste substances.

(`87 Code, § 9-3)

Statutory reference:

The disposal of waste substances and domestic or sanitary sewage, see I.C. 36-9-2-16 and 36-9-2-17

§ 50.04 CONTRACT ADDRESSING COLLECTING AND DISPOSING OF GARBAGE.

The Town Council may enter into a contract or contracts, now and hereafter, as necessity demands, with such responsible persons as may be capable of collecting and disposing of the garbage and other waste generated in the Town of Fortville and agree to pay such persons for such collecting and disposing of such garbage and other waste.

(`87 Code, § 6-41) (Ord. passed 11-1-50)

Statutory reference:

Authorizing a town to regulate the furnishing of the service of collecting, processing and disposing
of waste substances and domestic or sanitary sewage, including the power to fix the price to be

charged for the service, see I.C. 36-9-2-16

§ 50.05 SUMMER SPRINKLING CREDIT OF NEW HOMEOWNERS.

(A) If no usage history is available for new home customers, a summer sprinkling credit will be provided based on the average EDU sewer rates established for sewer only customers.

(B) Summer sprinkling credits will be provided to those new home customers in the same cycle as current customers.

(C) Summer sprinkling credits are provided during the months of July, August and September of each year.

(D) New home customers must contact the utility office and request a summer sprinkling credit prior to the due date on the bill for the credit months state in division (C).

(Ord. 2001- , passed - -02)

§ 50.06 COLLECTION OF CAPACITY AND CONNECTION FEES.

(A) All existing homeowners as of May 1, 2002 wishing to connect to the town utility infrastructure will be provided time to pay connection and capacity fees to the town.

(B) Homeowners wishing to connect to the town utility infrastructure will enter into a contract with the town to provide for payment of the fees associated with the purchase of utilities, including an administrative fee for handling the contract.

(C) These fees will be added to the monthly user bill received by the customer in the manner that has been contracted with the town.

(D) A maximum time frame for the repayment of the contracted capacity and connection fees shall not exceed 36 months.

(E) A minimum third initial payment of \$582 is required from the homeowner at the start of this agreement.

(F) This service shall be provided to all homeowners wishing to connect to both the water works and/or the sewage works.

(Ord. 2002-4A, passed 4-23-02)

CHAPTER 51: WATER SERVICE

Section

51.01 Water works rates and charges established

51.02 Connection charges

51.03 Water meter deposits

51.04 Charges for specific services

51.05 Water and sewage bills

§ 51.01 WATER WORKS RATES AND CHARGES ESTABLISHED.

There shall be and there is established for the use of and the service rendered by the Water Works System of the Town of Fortville, Indiana, rates and charges based upon the amount of water supplied during each monthly billing period which shall be as determined by the Town Council from time to time.

('87 Code, § 9-49) (Ord. 1980-6B, passed 6-18-80)

§ 51.02 CONNECTION CHARGES.

The connection charges for a service requiring a 5/8 inch meter shall be as determined by the Town Council from time to time. The connection charge for a service requiring a meter which is larger than 5/8 inch shall be as determined by the Town Council from time to time.

(`87 Code, § 9-50) (Ord. 1980-6B, passed 6-18-80; Am. Ord. 1993-8A, passed 8-10-93)

§ 51.03 WATER METER DEPOSITS.

The water meter deposit shall be as determined by the Town Council from time to time.

(`87 Code, § 9-51) (Ord. 1968-10A, passed 10-22-68)

§ 51.04 CHARGES FOR SPECIFIC SERVICES.

(A) Charges are set to cover expenses incurred and will not render or generate a profit and will be determined by the Town Council from time to time.

(B) All meter or meter valves damaged by a customer which require replacement shall be assessed the cost of labor and material and charged to the customer.

(`87 Code, § 9-61)

§ 51.05 WATER AND SEWAGE BILLS.

(A) It is the policy of the town to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The town's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(1) That all bills are due and payable on or before the date set forth on the bill; and

(2) That if any bill is not paid by or before that date, service will be discontinued for nonpayment in accordance with the procedures set forth in this section; and

(3) That any customer disputing the correctness of the bill shall have a right to a hearing at which time the customer may be represented in person and by counsel or any other person of the customer's choosing and may present orally or in writing his complaint and contentions to the town official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(B) (1) Bills will be mailed to be received on or before the first day of the month, and will be due in full on or before the seventeenth day of the billing month.

(2) Bills paid after the seventeenth will be charged a late payment penalty on both the water and sewage at rates in accordance with applicable ordinances.

(3) Accounts not paid by the twentieth will be issued a letter requesting payment in full, advising of the payment policy and of the potential loss of service within 20 days. In the case of rentals a copy of this letter will also be sent to the property owner.

(4) The past due amount with late charges will be added to the following months bill. This bill will be rubber stamped in red ink on the face of the bill "Must be paid in full by the seventeenth or service will be discontinued on the eighteenth."

(5) On the eighteenth shut off water services to these unpaid accounts and charge the current months bill a late charge.

(6) Water service will be resumed only after the total bill with late charges has been paid in full. Services will not be resumed on partial bill payment.

(7) Accounts unpaid after the first day of the following month (third month) will be added to the owner's property tax.

(`87 Code, § 9-62)

Statutory reference:

Termination of water service for unpaid sewage charges, see I.C. 8-1.5-3-4

Cross reference:

Sewer service, see Chapter 52

CHAPTER 52: SEWER SERVICE

Section

General Provisions

52.001 Purpose and policy

52.002 Administration

52.003 Abbreviations

52.004 Definitions

52.005 Confidential information

52.006 Publication of users in significant noncompliance

52.007 Pretreatment charges and fees

General Sewer Use Requirements

52.020 Prohibited discharge standards

52.021 Abnormal waste surcharge

52.022 National categorical pretreatment standards

52.023 Local limits

52.024 Town's right of revision and modifications

52.025 Dilution

Pretreatment of Wastewater

52.035 Pretreatment facilities

52.036 Additional pretreatment measures

52.037 Accidental discharge/slug control plans

52.038 Hauled wastewater

Wastewater Discharge Permit Application

52.050 Wastewater analysis

52.051 Wastewater discharge permit requirement

52.052 Wastewater discharge permitting

52.053 Wastewater discharge permit application contents

52.054 Application signatories and certification

52.055 Wastewater discharge permit decisions

Wastewater Discharge Permit Issuance Process

52.065 Permit duration

52.066 Permit contents

52.067 Permit appeals

52.068 Permit modification

52.069 Permit transfer

52.070 Permit revocation
52.071 Permit reissuance
52.072 Regulation of waste received from other jurisdictions
Reporting Requirements
52.085 Baseline monitoring reports
52.086 Compliance schedule progress reports
52.087 Reports on compliance with categorical pretreatment standard deadline
52.088 Periodic compliance reports
52.089 Reports of changed conditions
52.090 Reports of potential problems; POTW reports to IDEM; investigations
52.091 Reports from unpermitted users
52.092 Notice of violation; repeat sampling and reporting
52.093 Notification of the discharge of hazardous waste
52.094 Analytical requirements
52.095 Sample collection
52.096 Timing
52.097 Recordkeeping
Compliance Monitoring
52.110 Industrial monitoring
52.111 Industrial survey
52.112 Right of entry; inspection and sampling
52.113 Search warrants
Administration and Enforcement
52.125 Notification of violations
52.126 Agreed orders
52.127 Show cause hearing
52.128 Compliance orders
52.129 Cease and desist orders
52.130 Administrative fines
52.131 Emergency suspensions
52.132 Termination of discharge
52.133 Performance bonds
52.134 Liability insurance
52.135 Water supply severance
52.136 Public nuisances
52.137 Informant rewards
52.138 Contractor listing
52.139 Affirmative defenses to discharge violations
52.140 Public noticing of SNC discharges
52.999 Penalty

GENERAL PROVISIONS

§ 52.001 PURPOSE AND POLICY.

(A) This chapter sets forth uniform requirements for users of the publicly owned treatment works for the Town of Fortville and enables the town to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 et seq.)

and the General Pretreatment Regulations (40 CFR 403). The objectives of this chapter are:

- (1) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;
- (2) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters or otherwise be incompatible with the publicly owned treatment works;
- (3) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (4) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;
- (5) To provide for fees for the equitable distribution of the costs of operation, maintenance and improvement of the publicly owned treatment works; and
- (6) To enable the town to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements and any other federal or state laws to which the publicly owned treatment works is subject.

(B) This chapter shall apply to all direct and indirect users of the publicly owned treatment works, including persons outside the town who are, by contract or agreement with the town, users of the publicly owned treatment works. This chapter authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein and for fines and other remedies for violation of this chapter.

(Ord. 2000-11B, passed 11-28-00)

§ 52.002 ADMINISTRATION.

(A) Except as otherwise provided herein, the Superintendent shall administer, implement and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other town personnel.

(B) The town will maintain sufficient resources and qualified personnel to carry out the hybrid pretreatment program in accordance with 327 I.A.C. 5-13-4(f)(c).

(C) If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

(Ord. 2000-11B, passed 11-28-00)

§ 52.003 ABBREVIATIONS.

The following abbreviations, when used in this chapter, shall have the designated meanings:

AAS	-	Alkyl Atrial Sulfonate
ABS	-	Alkyl Benzene Sulfonate
BOD5	-	Biochemical Oxygen Demand - Five Day
CFR	-	Code of Federal Regulations

COD5	-	Chemical Oxygen Demand - Five Day
EPA	-	U.S. Environmental Protection Agency -
Washington D.C.		
EPA Region V	-	U.S. Environmental Protection Agency, Region V -
Chicago, Illinois		
FOG	-	Fats, Oil and Grease
gpd	-	gallons per day
I.A.C.	-	Indiana Administrative Code
I.C.	-	Indiana Code
I/I	-	Inflow and Infiltration (Clear Water Flow)
IDEM	-	Indiana Department of Environmental Management
IWP	-	Industrial Wastewater Discharge Permit
MGD	-	Million Gallons per Day
mg/l	-	milligrams per liter
MSDS	-	Material Safety Data Sheet
NPDES	-	National Pollutant Discharge Elimination System
O & G	-	Oil and Grease
POTW	-	Publicly Owned Treatment Works
PUWWS	-	IDEM's Pretreatment and Urban Wet Weather
Section		
RCRA	-	Resource Conservation and Recovery Act
SIC	-	Standard Industrial Classification
SNC	-	Significant Noncompliance
SIU	-	Significant Industrial User
TSS	-	Total Suspended Solids
USC	-	United States Code
WDP	-	Wastewater Discharge Permit

(Ord. 2000-11B, passed 11-28-00)

§ 52.004 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT or THE ACT. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

APPLICABLE PRETREATMENT STANDARD. Any pretreatment limit or prohibitive standard (federal, state or local) contained in this chapter and considered to be the most restrictive with which nondomestic users will be required to comply.

APPROVAL AUTHORITY. The Regional Administrator of EPA Region V. IDEM will automatically be designated as the Approval Authority if its pretreatment program is approved by the EPA and EPA delegates its pretreatment program authority to IDEM.

AUTHORIZED REPRESENTATIVE OF THE USER.

(1) If the user is a corporation:

(a) The president, secretary, treasurer or a vice-president of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding 25 million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the user is a federal, state or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility or their designee.

(4) The individuals described in subsections (1) through (3), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to the Superintendent.

BIOCHEMICAL OXYGEN DEMAND or BOD5. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20°C, usually expressed as a concentration (for example, mg/l).

BYPASS. The intentional diversion of waste streams from any portion of an industrial user's treatment facility.

CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARD. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

CLEAR WATER FLOW. Groundwater or precipitation related water which enters the sanitary sewer collection system through pipe defects (infiltration) or conduits (inflow).

COLOR. The optical density at the visual wave length of maximum absorption, relative to distilled water. 100% transmittance is equivalent to zero (0.0) optical density.

COMBINED SEWER. Sewer which carries both sanitary and stormwater flow by design.

COOLING WATER. The water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

COUNCIL. The Town Council of Fortville, Indiana, or any duly authorized official acting on its behalf.

DAILY DISCHARGE. Discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for sampling purposes.

ENVIRONMENTAL PROTECTION AGENCY or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Region V Water Management Division Director or other duly authorized official of the agency.

EXISTING SOURCE. Any source of discharge, the construction or operation of which commenced prior to the publication by the EPA of proposed categorical

pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

FATS, OILS AND GREASE. A group of substances, including hydrocarbons, fatty acids, soaps, fats, waxes, oils or any other material that is extracted by a solvent from an acidified sample and that is not volatilized during the laboratory test procedures.

FLOW PROPORTIONAL SAMPLING or TIME PROPORTIONAL SAMPLING. A 24-hour composite sample that consists of at least three grab samples collected over equal time intervals during the period of operator attendance. The grab samples for the composite shall be proportioned to flow. If a user does not utilize an automatic sampler, a flow proportioned composite sample may be obtained by:

- (1) Recording the discharge flow rate at the time each individual sample is taken;
- (2) Adding together the discharge flow rates recorded from each individual sampling time to formulate the "total flow value;"
- (3) Dividing the discharge flow rate of each individual sampling time by the total flow value to determine its percentage of the total flow value;
- (4) Multiplying the volume of the total composite sample by each individual sample's percentage to determine the volume of that individual sample that will be included in the total composite sample.

GRAB SAMPLE. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

HAZARDOUS WASTE. Any waste defined as a hazardous waste under 40 CFR 261.

INDIRECT DISCHARGE or DISCHARGE. The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

INDUSTRIAL USER. Any person who introduces or has the potential to introduce pollutants into a POTW from any manufacturing, noncommercial or nondomestic source regulated under the Act, state law or local regulation.

INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

INTERFERENCE. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the town's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

MAXIMUM DAILY DISCHARGE LIMITATIONS. Highest allowable daily discharge.

MEDICAL WASTE. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

NEW SOURCE.

(1) Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)(b) or (c) above but otherwise alters, replaces or adds to existing process or production equipment.

(3) Construction of a new source as defined under this subsection has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous on-site construction program:

1. Any placement, assembly or installation of facilities or equipment; or

2. Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities which are necessary for the placement, assembly or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subsection.

NONCONTACT COOLING WATER. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

PASS THROUGH. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the town's

NPDES permit (IN0020958), including an increase in the magnitude or duration of a violation.

PERSON. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity or their legal representatives, agents or assigns. This definition includes all federal, state and local governmental entities.

pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

POLLUTANT. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes and certain characteristics of wastewater (for example, pH, temperature, TSS, turbidity, color, BOD5, COD5, toxicity and odor).

PRETREATMENT. The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

PRETREATMENT REQUIREMENTS. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

PRETREATMENT STANDARD OR STANDARDS. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards and local limits.

PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 52.020.

PUBLICLY OWNED TREATMENT WORKS or POTW. A treatment works, as defined by Section 212 of the Act (33 USC 1292) which is owned by the town. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

SEPTIC TANK WASTE. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

SEWAGE. Human excrement and gray water (household showers, dishwashing operations and the like).

SIGNIFICANT INDUSTRIAL/COMMERCIAL USER (SIU).

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

(a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(b) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the town on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the town may, at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

SIGNIFICANT NONCOMPLIANCE (SNC). For compliance provisions of this chapter, this term is defined as follows:

(1) Violations of wastewater discharge limits:

(a) Chronic violations. 66% or more of the measurements exceed the same daily maximum limit or the same average limit in a six month period;

(b) Technical review criteria (TRC). 33% or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six month period. There are two groups of TRCs:

1. Group I for conventional pollutants
(BOD5, COD, TSS, fats, oil and grease)

TRC = 1.4 (40%);

2. Group II for all other pollutants

TRC = 1.2 (20%);

(c) Any other violation(s) of an effluent limit (average or daily maximum) that the Superintendent believes has caused, alone or in combination with other discharges, interference (for example, slug loads) or pass through or endangered the health of the sewage treatment personnel or the public;

(d) Any discharge of a pollutant which has caused imminent endangerment to human health/welfare or to the environment and resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(2) Violation of compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction or attaining final compliance by 90 days or more after the schedule date.

(3) Failure to provide reports for compliance schedules, self-monitoring data or categorical standards (baseline monitoring reports, 90-day compliance reports and periodic reports) within 30 days from due date.

(4) Failure to accurately report noncompliance.

(5) Any other violation or group of violations which the Superintendent considers to be significant.

SLUDGE. Any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other waste having similar characteristics and effects.

SLUG DISCHARGE or SLUG LOAD. Any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch

discharge that may cause interference to a POTW or any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 52.020.

STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

STORMWATER. Any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snowmelt.

SUPERINTENDENT. The person designated by the Town of Fortville who is charged with certain duties and responsibilities by this chapter or a duly authorized representative.

SUSPENDED SOLIDS. The total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquid and which is removable by laboratory filtering.

TOWN. The Town of Fortville, Indiana, acting by and through its Town Council.

USER or INDUSTRIAL USER. A source of indirect discharge.

WASTEWATER. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, which are contributed to the POTW.

WASTEWATER CONSTITUENTS AND CHARACTERISTICS. The individual chemical, physical, bacteriological and radiological parameters, including volume, flow rate and other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

WASTEWATER DISCHARGE PERMIT. A permit issued by the town to a user of the wastewater utility which establishes specific conditions and requirements.

WASTEWATER TREATMENT PLANT or TREATMENT PLANT. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

(Ord. 2000-11B, passed 11-28-00)

§ 52.005 CONFIDENTIAL INFORMATION.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs and from the Superintendent's inspection and sampling activities shall be available to the public without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the Superintendent that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. 2000-11B, passed 11-28-00)

§ 52.006 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.

The Superintendent shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements.

(Ord. 2000-11B, passed 11-28-00)

§ 52.007 PRETREATMENT CHARGES AND FEES.

The Superintendent and the Council may adopt reasonable fees for reimbursement of costs of setting up and operating the town's pretreatment program which may include:

- (A) Fees for wastewater discharge permit applications, including the cost of processing such applications;
- (B) Fees for the issuance of permits;
- (C) Fees for monitoring, inspection and surveillance procedures, including the cost of collection of and analyzing a user's discharge, the collection and analyzing samples, reviewing monitoring reports submitted by users and conducting site visits;
- (D) Fees for reviewing and responding to accidental discharge procedures and construction;
- (E) Fees for filing appeals; and
- (F) Other fees as the Superintendent or Council may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines and penalties chargeable by the town.

(Ord. 2000-11B, passed 11-28-00)

GENERAL SEWER USE REQUIREMENTS

§ 52.020 PROHIBITED DISCHARGE STANDARDS.

(A) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW, whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

(B) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
- (2) Wastewater having a pH less than 6.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;
- (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than 200 mg/l daily average. TSS levels in excess of 200 mg/l daily average may be subject to a surcharge per § 52.021. TSS levels in excess of 200 mg/l daily average shall result in the imposition of a fine per § 52.130;
- (4) Pollutants, including oxygen-demanding pollutants (BOD and the like), released in a discharge at a flow rate and/or pollutant concentration that, either singly or by interaction with other pollutants, will cause interference with the POTW.

BOD levels in excess of 200 mg/l daily average may be subject to a surcharge per § 52.021. BOD levels in excess of 400 mg/l daily average shall result in the imposition of a fine per § 52.130;

(5) Wastewater having a temperature greater than 140°F (60°C) or that will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

(6) Ammonia levels in excess of 20 mg/l daily average may be subject to a surcharge per § 52.021. Ammonia levels in excess of 30 mg/l daily average may result in the imposition of a fine per § 52.130;

(7) Fat, oil and grease levels in excess of 100 mg/l daily average may be subject to a surcharge per § 52.021. Fat, oil and grease levels in excess of 200 mg/l daily average may result in the imposition of a fine per § 52.130;

(8) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through;

(9) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW sewers, including in a quantity that may cause acute worker health and safety problems;

(10) Trucked or hauled pollutants, except at discharge points designated by the Superintendent in accordance with § 52.038;

(11) Noxious or malodorous liquids, gases, solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life or to prevent entry into the sewers for maintenance or repair;

(12) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the town's NPDES permit (No. IN0020958);

(13) Wastewater containing any radioactive wastes or isotopes, except in compliance with applicable state or federal regulations;

(14) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted wastewater, unless specifically authorized by the Superintendent;

(15) Sludges, screenings or other residues from the pretreatment of industrial wastes;

(16) Medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit;

(17) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

(18) Detergents, surface-active agents or other substances which may cause excessive foaming in the POTW, including AAS and AES; and

(19) Instantaneous flows and loadings which are in excess of the POTW's functional and treatment capacities or are likely to cause overflow conditions.

(20) Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(Ord. 2000-11B, passed 11-28-00)

§ 52.021 ABNORMAL WASTE SURCHARGE.

(A) The costs of treatment for each pound of BOD, suspended solids or grease removed by each treatment works shall be reviewed by the town at the end of each fiscal year. If a discrepancy exists between the actual costs as found by the town and the estimated costs, the town shall increase or decrease the surcharge rates sufficiently to cover only the projected actual costs for the ensuing year. The surcharge rates are contained in the town's separate rate ordinances.

(B) No reduction in sewerage service charges, fees or taxes will be permitted because of the fact that certain industrial wastes discharged to the public sanitary sewerage system contain less than the surcharge based limitations.

(Ord. 2000-11B, passed 11-28-00)

§ 52.022 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

The categorical pretreatment standards found at 40 CFR Chapter 1, Subchapter N, Parts 405-471 are hereby incorporated.

(A) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

(B) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(C) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(D) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(Ord. 2000-11B, passed 11-28-00)

§ 52.023 LOCAL LIMITS.

(A) The following pollutant limitations are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum concentrations based upon a flow proportional sampling or time proportional sampling. Additionally, no person shall discharge wastewater containing in excess of the following maximum concentrations times a multiplier of 1.5 based upon a grab sample. The 1.5 grab sample multiplier does not apply to Hex. Chromium, Cyanide and Phenols in that analytical procedures do not allow for composite techniques to be applied to these parameters. For Hex. Chromium, Cyanide and Phenols, three grab sample results shall be analyzed with results not to exceed the following noted limitations:

- | | | |
|-----|------------|------------------|
| (1) | 30 mg/l: | Ammonia; |
| (2) | 0.04 mg/l: | Arsenic (total); |
| (3) | 200 mg/l: | BOD5; |
| (4) | 0.20 mg/l: | Cadmium (total); |

(5)	900	mg/l:	COD5;
(6)	4.0	mg/l:	Total Chromium;
(7)	0.6	mg/l:	Copper;
(8)	0.025	mg/l:	Cyanide (total);
(9)	0.113	mg/l:	Lead (total);
(10)	0.0002	mg/l:	Mercury (total);
(11)	0.3	mg/l:	Nickel;
(12)	200	mg/l:	Fats, Oils & Grease;
(13)	0.5	mg/l:	Silver;
(14)	200	mg/l:	TSS (Total Suspended Solids);
(15)	2.0	mg/l:	TTO (Total Toxic Organics);
(16)	2.0	mg/l:	Zinc (total);

(B) The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Superintendent may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

(C) Upon the promulgation of the National Categorical Pretreatment Standard (NCPS) for a particular user, the said standard, if more stringent than the limitations imposed under this chapter for sources in that category, shall, when effective, immediately supersede the limitations and conditions imposed under this chapter. The Superintendent shall notify all known affected users of the applicable permitting and reporting requirements under 40 CFR 403.12.

(Ord. 2000-11B, passed 11-28-00)

§ 52.024 TOWN'S RIGHT OF REVISION AND MODIFICATIONS.

(A) The town reserves the right to establish, by ordinance or in wastewater discharge permits, different or more stringent standards or requirements on discharges to the POTW.

(B) Any significant modifications the town intends to make will be submitted to PUWWS for approval in accordance with 327 I.A.C. 5-13-4(g) prior to being enacted. Significant modifications include the following:

- (1) A major modification in the town's administrative procedures;
- (2) A significant reduction in the monitoring procedures;
- (3) A significant change in the financial or revenue limitations contained in this chapter;
- (4) A change in the industrial survey;
- (5) A change in federal or state regulations or requirements;
- (6) An increase in pollutant limits.

(Ord. 2000-11B, passed 11-28-00)

§ 52.025 DILUTION.

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Superintendent may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

(Ord. 2000-11B, passed 11-28-00)

PRETREATMENT OF WASTEWATER

§ 52.035 PRETREATMENT FACILITIES.

Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in § 52.021 within the time limitations specified by EPA, the state or the Superintendent, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Superintendent for review and shall be acceptable to the Superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the town under the provisions of this chapter.

(Ord. 2000-11B, passed 11-28-00)

§ 52.036 ADDITIONAL PRETREATMENT MEASURES.

(A) Whenever deemed necessary, the Superintendent may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(B) The Superintendent may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(C) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(D) Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil or sand, except that such interceptors shall not be required for residential use. All interception units shall be of the type and capacity approved by the Superintendent and shall be located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the user at their expense.

(E) Users which operate vehicular wash facilities shall provide, operate and maintain pretreatment facilities approved by the Superintendent to control solids and preclude the discharge of toxics to the POTW.

(F) Users which operate food preparation facilities shall provide, operate and maintain pretreatment facilities approved by the Superintendent to control the discharge of greases, fats, oils and food solids to the POTW.

(Ord. 2000-11B, passed 11-28-00)

§ 52.037 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

(A) At least once every two years, the Superintendent shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Superintendent may require any user to develop, submit for approval and implement such a plan. Alternatively, the Superintendent may develop such a plan for any user and require the user to comply with the plan.

(B) An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Superintendent of any accidental or slug discharge, as required by § 52.090; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment and measures for containing toxic organic pollutants, including solvents and/or measures and equipment for emergency response.

(Ord. 2000-11B, passed 11-28-00)

§ 52.038 HAULED WASTEWATER.

(A) Wastewater haulers are prohibited except under the express and specific written permission of the Superintendent.

(B) Industrial or septic waste haulers who receive the express and specific written permission of the Superintendent to introduce industrial or septic waste into the POTW must comply with the following conditions:

(1) Industrial or septic waste haulers may discharge loads only at locations designated by the Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with applicable standards. The Superintendent may require the industrial waste hauler to provide a waste analysis of any load prior to discharge;

(2) Industrial or septic waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents and whether any wastes are RCRA hazardous wastes.

(Ord. 2000-11B, passed 11-28-00)

WASTEWATER DISCHARGE PERMIT APPLICATION

§ 52.050 WASTEWATER ANALYSIS.

When requested by the Superintendent, a user must submit information on the nature and characteristics of its wastewater within 14 days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Ord. 2000-11B, passed 11-28-00)

§ 52.051 WASTEWATER DISCHARGE PERMIT REQUIREMENT.

(A) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Superintendent, except that a significant industrial user that has filed a timely application pursuant to § 52.052 may continue to discharge for the time period specified therein.

(B) The Superintendent may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this chapter.

(C) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in §§ 52.125 et seq. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

(Ord. 2000-11B, passed 11-28-00)

§ 52.052 WASTEWATER DISCHARGE PERMITTING.

(A) Existing connections. Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this chapter and who wishes to continue such discharges in the future shall, within 30 days after said date, apply to the Superintendent for a wastewater discharge permit in accordance with § 52.053 and shall not cause or allow discharges to the POTW to continue after 30 days of the effective date of this chapter except in accordance with a wastewater discharge permit issued by the Superintendent.

(B) New connections. Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with § 52.053, must be filed at least 30 days prior to the date upon which any discharge will begin or recommence.

(Ord. 2000-11B, passed 11-28-00)

§ 52.053 WASTEWATER DISCHARGE PERMIT APPLICATION CONTENTS.

(A) All users required to obtain a wastewater discharge permit must submit a permit application. The Superintendent may require all users to submit as part of an application the following information:

- (1) All information required by § 52.085(B);
- (2) Description of activities, facilities and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW and MSDS sheets for all chemicals used which are subject to potential discharge;
- (3) Number and type of employees, hours of operation and proposed or actual hours of operation;
- (4) Each product produced by type, amount, process or processes and rate of production;
- (5) Type and amount of raw materials processed (average and maximum per day);
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains and appurtenances by size, location and elevation and all points of discharge;
- (7) Time and duration of discharges; and
- (8) Any other information as may be deemed necessary by the Superintendent to evaluate the wastewater discharge permit application.

(B) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(Ord. 2000-11B, passed 11-28-00)

§ 52.054 APPLICATION SIGNATORIES AND CERTIFICATION.

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(Ord. 2000-11B, passed 11-28-00)

§ 52.055 WASTEWATER DISCHARGE PERMIT DECISIONS.

The Superintendent will evaluate the data furnished by the user and may require additional information. Any new SIU industry proposing to discharge process wastewater must acquire an IWP before it can commence discharging into the POTW. Within 15 days of receipt of a complete wastewater discharge permit application, the Superintendent will determine whether or not to issue a wastewater discharge permit. The Superintendent may deny any application for a wastewater discharge permit.

(Ord. 2000-11B, passed 11-28-00)

WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

§ 52.065 PERMIT DURATION.

A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit, unless administratively extended by the Superintendent in writing. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the Superintendent. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(Ord. 2000-11B, passed 11-28-00)

§ 52.066 PERMIT CONTENTS.

(A) A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Superintendent to prevent pass through or interference, protect the quality of the waterbody receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect against damage to the POTW and ensure the town is in compliance with its NPDES permit.

(B) Wastewater discharge permits must contain:

(1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to and approval of the Superintendent in accordance with § 52.069 and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits based on applicable pretreatment standards and as identified in § 52.023;

(4) Self monitoring, sampling, reporting, notification and recordkeeping requirements. These requirements shall include an identification of

pollutants to be monitored, sampling location, sampling frequency and sample type based on federal, state and local law; and

(5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state or local law.

(C) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control or construction of appropriate containment devices designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works;

(3) Requirements for the development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated or nonroutine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(6) Requirements for the installation and maintenance of inspection and sampling facilities and equipment;

(7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

(8) Other conditions as deemed appropriate by the Superintendent to ensure compliance with this chapter and state and federal laws, rules and regulations.

(Ord. 2000-11B, passed 11-28-00)

§ 52.067 PERMIT APPEALS.

(A) The Superintendent shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Superintendent to reconsider the terms of a wastewater discharge permit within 15 days of notice of its issuance.

(1) Failure to submit a timely petition for reconsideration shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for each objection and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(B) The effectiveness of the wastewater discharge permit shall not be stayed pending the request for reconsideration.

(C) If the Superintendent fails to act within 30 days of the mailing of the request for reconsideration, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(D) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Hancock County Circuit Court within 30 days of the final administrative wastewater discharge permit decision.

(Ord. 2000-11B, passed 11-28-00)

§ 52.068 PERMIT MODIFICATION.

The Superintendent may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(A) To incorporate any new or revised federal, state or local pretreatment standards or requirements;

(B) To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance;

(C) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(D) Information indicating that the permitted discharge poses a threat to the town's POTW, town personnel or the receiving waters;

(E) Violation of any terms or conditions of the wastewater discharge permit;

(F) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(G) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(H) To correct typographical or other errors in the wastewater discharge permit; or

(I) To reflect a transfer of the facility ownership or operation to a new owner or operator.

(Ord. 2000-11B, passed 11-28-00)

§ 52.069 PERMIT TRANSFER.

(A) Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the Superintendent and the Superintendent approves the wastewater discharge permit transfer. The notice to the Superintendent must include a written certification by the new owner or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

(B) Failure to provide 30 days advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

(Ord. 2000-11B, passed 11-28-00)

§ 52.070 PERMIT REVOCATION.

(A) The Superintendent may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the Superintendent of significant changes to the wastewater prior to the changed discharge;

- (2) Failure to provide prior notification to the Superintendent of changed conditions pursuant to § 52.089;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the Superintendent or his or her agent timely access to the facility premises and records as would be reasonable under the circumstances;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (12) Failure to provide 30 days advance notice of the transfer of business ownership of a permitted facility; or
- (13) Violation of any pretreatment standard or requirement or any terms of the wastewater discharge permit or this chapter.

(B) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(Ord. 2000-11B, passed 11-28-00)
§ 52.071 PERMIT REISSUANCE.

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with § 52.053, a minimum of 180 days prior to the expiration of the user's existing wastewater discharge permit.

(Ord. 2000-11B, passed 11-28-00)
§ 52.072 REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTIONS.

(A) If another municipality or sewer district contributes wastewater to the POTW, the Superintendent shall enter into an intermunicipal or interdistrict agreement with the contributing entity.

(B) Prior to entering into an agreement required by division (A) of this section, the Superintendent shall request the following information from the contributing entity:

- (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing entity;
- (2) An inventory of all users located within the contributing entity that are discharging to the POTW; and
- (3) Such other information as the Superintendent may deem necessary.

(C) An intermunicipal agreement, as required by division (A) of this section, shall contain the following conditions:

(1) A requirement for the contributing entity to adopt a sewer use ordinance which is at least as stringent as this chapter and local limits which are at least as stringent as those set out in § 52.023. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the town's ordinance or local limits;

(2) A requirement for the contributing entity to submit a revised user inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Superintendent; and which of these activities will be conducted jointly by the contributing municipality and the Superintendent;

(4) A requirement for the contributing entity to provide the Superintendent with access to all information that the contributing entity obtains as part of its pretreatment activities;

(5) Limits on the nature, quality and volume of the contributing entity's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing entity's discharge;

(7) A provision ensuring the Superintendent access to the facilities of users located within the contributing entity's jurisdictional boundaries for the purpose of inspection, sampling and any other duties deemed necessary by the Superintendent; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal or interdistrict agreement.

(Ord. 2000-11B, passed 11-28-00)

REPORTING REQUIREMENTS

§ 52.085 BASELINE MONITORING REPORTS.

(A) Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent a report which contains the information listed in division (B). At least 90 days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard shall submit to the Superintendent a report which contains the information listed in division (B) of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(B) Users described above shall submit the information set forth below:

(1) Identifying information. The name and address of the facility, including the name of the operator and the owner.

(2) Environmental permits. A list of any environmental control permits held by or for the facility.

(3) Description of operations. A brief description of the nature, average rate of production and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(5) Measurement of pollutants.

(a) The categorical pretreatment standards applicable to each regulated process.

(b) The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 52.094.

(c) Sampling must be performed in accordance with procedures set out in § 52.095.

(d) MSDS sheets for all chemicals used which are subject to potential discharge.

(6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 52.086.

(8) Signature and certification. All baseline monitoring reports must be signed and certified in accordance with § 52.054.

(Ord. 2000-11B, passed 11-28-00)

§ 52.086 COMPLIANCE SCHEDULE PROGRESS REPORTS.

The following conditions shall apply to the compliance schedule required by § 52.085(B)(7):

(A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, project status reports, beginning operation and attaining compliance);

(B) No increment referred to above shall exceed nine months;

(C) The user shall submit a progress report to the Superintendent no later than 14 days following each date in the schedule and the final date of compliance which shall include, at a minimum, whether or not it complied with the increment of progress, the

reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(D) In no event shall more than nine months elapse between such progress reports to the Superintendent.

(Ord. 2000-11B, passed 11-28-00)

§ 52.087 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Superintendent a report containing the information described in § 52.085(B)(4)-(6). For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 52.054.

(Ord. 2000-11B, passed 11-28-00)

§ 52.088 PERIODIC COMPLIANCE REPORTS.

(A) All significant industrial users shall, at a frequency determined by the Superintendent but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 52.054.

(B) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(C) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Superintendent, using the procedures prescribed in § 52.095, the results of this monitoring shall be included in the report.

(Ord. 2000-11B, passed 11-28-00)

§ 52.089 REPORTS OF CHANGED CONDITIONS.

Each user must notify the Superintendent of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.

(A) The Superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 52.053.

(B) The Superintendent may issue a wastewater discharge permit under § 52.055 or modify an existing wastewater discharge permit under § 52.068 in response to changed conditions or anticipated changed conditions.

(C) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 10% or greater and the discharge of any previously unreported pollutants.

(Ord. 2000-11B, passed 11-28-00)

§ 52.090 REPORTS OF POTENTIAL PROBLEMS; POTW REPORTS TO IDEM; INVESTIGATIONS.

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) Within five days following such discharge, the user shall, unless waived in writing by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this chapter.

(C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in division (A) of this section. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

(D) The Superintendent will document and notify IDEM, Office of Water Management's Compliance Evaluation, of any major violations of any discharge permit.

(E) The Superintendent will investigate violations through the collection and analysis of samples and other information in a manner designed to produce evidence that will be admissible in an enforcement proceeding or judicial action.

(Ord. 2000-11B, passed 11-28-00)

§ 52.091 REPORTS FROM UNPERMITTED USERS.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Superintendent as the Superintendent may require.

(Ord. 2000-11B, passed 11-28-00)

§ 52.092 NOTICE OF VIOLATION; REPEAT SAMPLING AND REPORTING.

If sampling performed by a user indicates a violation of this chapter, a wastewater discharge permit, federal, state or local law, the user must notify the Superintendent within two hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within 30 days after becoming aware of the violation. The user is not required to resample if the Superintendent monitors at the user's facility at least once a month or if the Superintendent samples between the user's initial sampling and when the user receives the results of this sampling.

(Ord. 2000-11B, passed 11-28-00)

§ 52.093 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

(A) Any user who commences the discharge of hazardous waste shall notify the Superintendent, the EPA Region V Waste Management Division Director and the IDEM Office of Solid and Hazardous Waste, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number and the type of discharge (continuous, batch or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this division need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 52.089. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self- monitoring requirements of §§ 52.085, 52.087 and 52.088.

(B) Dischargers are exempt from the requirements of division (A) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(C) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Superintendent, the EPA Region V Waste Management Division Director and IDEM of the discharge of such substance within 90 days of the effective date of such regulations.

(D) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder or any applicable federal or state law.

(Ord. 2000-11B, passed 11-28-00)

§ 52.094 ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

(Ord. 2000-11B, passed 11-28-00)

§ 52.095 SAMPLE COLLECTION.

(A) Except as indicated in division (B) of this section, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Superintendent may authorize the use of time, proportional sampling or a minimum of three grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(B) Samples for O&G, temperature, pH, cyanide, phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques.

(Ord. 2000-11B, passed 11-28-00)

§ 52.096 TIMING.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not deposited, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(Ord. 2000-11B, passed 11-28-00)

§ 52.097 RECORDKEEPING.

(A) Users subject to the reporting requirements of this chapter shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the town or where the user has been specifically notified of a longer retention period by the Superintendent.

(B) The town will retain pretreatment reports from industrial users for a minimum of three years. These records will be available for IDEM or EPA to copy in accordance with 327 I.A.C. 5-11-7(d). This period will be extended during the course of any unresolved litigation, including appeals periods, regarding the discharge of pollutants by the industrial user or the operation of the hybrid pretreatment program or upon the request of IDEM or EPA.

(Ord. 2000-11B, passed 11-28-00)

COMPLIANCE MONITORING

§ 52.110 INDUSTRIAL MONITORING.

(A) The town will inspect, sample and analyze industrial discharges in the following manner:

(1) The sample types will be the same type as required in the IWP issued by the controlling legal authority;

(2) The samples will be collected at the sample location specified in the IWP issued by the controlling legal authority;

(3) A sampling and inspection program shall be inspected for, at a minimum, all IWP facilities. IWP facilities will be inspected at least annually;

(4) Samples will be collected at least quarterly;

(5) The analytical results of the samples will be submitted to the town and IDEM PUWWS by the twenty-eighth day of the month following the month in which the samples were taken;

(6) The town will keep a record of each industrial inspection it performs. A copy of each inspection report will be sent to the PUWWS within 15 days of its completion.

(B) The town will immediately sample and analyze the POTW influent and effluent for suspected pollutant(s) when the POTW operation is upset. The town will immediately contact PUWWS and the Compliance Evaluation Section by telephone at the time of the occurrence. The results of each analysis conducted as a result of an upset will be submitted to PUWWS.

(Ord. 2000-11B, passed 11-28-00)

§ 52.111 INDUSTRIAL SURVEY.

(A) The Superintendent will maintain an industrial survey that contains information about each industrial user that discharges into the POTW.

(B) Information concerning any industrial user commencing or ceasing discharge shall be updated on the industrial survey immediately. The Superintendent will notify the PUWWS of any new industrial user commencing discharge into the POTW within five days.

(Ord. 2000-11B, passed 11-28-00)

§ 52.112 RIGHT OF ENTRY; INSPECTION AND SAMPLING.

The Superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any wastewater discharge permit or order issued hereunder. Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties, as would be reasonable under the circumstances.

(A) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent or his or her agent will be permitted to enter without delay for the purposes of performing specific responsibilities.

(B) The Superintendent or his or her agent shall have the right to set up on the user's property or require installation of such devices as are necessary to conduct sampling and/or metering of the user's operations.

(C) The Superintendent may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually, and more often if appropriate for the equipment, to ensure their accuracy.

(D) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be borne by the user.

(E) Unreasonable delays under the circumstances in allowing the Superintendent or his or her agent access to the user's premises shall be a violation of this chapter.

(Ord. 2000-11B, passed 11-28-00)

§ 52.113 SEARCH WARRANTS.

If the Superintendent has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the town designed to verify compliance with this chapter or any permit or order issued hereunder or to protect the overall public health, safety and welfare of the community, then the Superintendent may seek issuance of a search warrant from the Hancock County Circuit Court in Greenfield, Indiana.

(Ord. 2000-11B, passed 11-28-00)

ADMINISTRATION AND ENFORCEMENT

§ 52.125 NOTIFICATION OF VIOLATIONS.

When the Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may serve upon that user a written notice of violation. Within 30 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Superintendent or the Council to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Ord. 2000-11B, passed 11-28-00)

§ 52.126 AGREED ORDERS.

The Council may enter into agreed orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. The documents shall have the same force and effect as the administrative orders issued pursuant to §§ 52.128 and 52.129 and shall be judicially enforceable.

(Ord. 2000-11B, passed 11-28-00)

§ 52.127 SHOW CAUSE HEARING.

The Superintendent may order a user which has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement to appear before the Council and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 15 days prior to the hearing. The notice may be served on any authorized representative of

the user. A show cause hearing shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 2000-11B, passed 11-28-00)

§ 52.128 COMPLIANCE ORDERS.

When the Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Superintendent may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 2000-11B, passed 11-28-00)

§ 52.129 CEASE AND DESIST ORDERS.

(A) When the Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(B) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 2000-11B, passed 11-28-00)

§ 52.130 ADMINISTRATIVE FINES.

(A) When the Superintendent or the Council finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent or the Council may fine such user in an amount not to exceed \$2,500 as provided by I.C. 36-1-3-8. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

(B) When the Superintendent or the Council finds that a user has falsified any information provided to the Superintendent, the town, IDEM or the EPA, the Superintendent or the Council may fine such user in an amount not to exceed \$2,500 as provided by I.C. 36-1-3-8. Such fines shall be assessed on a per violation, per day basis.

(C) Unpaid charges, fines and penalties shall, after 60 calendar days, be assessed an additional penalty of 10% of the unpaid balance, and interest shall accrue

thereafter at a rate of 1.8% per month. A lien against the user's property may be sought for unpaid charges, fines and penalties.

(D) Users desiring to dispute such fines must file a written request with the Superintendent and the Council requesting the reconsideration of the fine along with full payment of the fine amount within 30 days of being notified of the fine. Where a request has merit, the Council may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Superintendent or the Council may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(E) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 2000-11B, passed 11-28-00)

§ 52.131 EMERGENCY SUSPENSIONS.

(A) The Superintendent may immediately suspend a user's discharge, after formal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Superintendent may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW or which presents, or may present, an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The Superintendent may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless the termination proceedings in § 52.132 are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent prior to the date of any show cause or termination hearing under §§ 52.127 and 52.132.

(B) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(Ord. 2000-11B, passed 11-28-00)

§ 52.132 TERMINATION OF DISCHARGE.

(A) In addition to the provisions in § 52.070, any user who violates the following conditions is subject to discharge termination:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

(4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or

(5) Violation of the pretreatment standards in §§ 52.020 et seq.

(B) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under why the proposed action should not be taken. Exercise of this option by the Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. 2000-11B, passed 11-28-00)

§ 52.133 PERFORMANCE BONDS.

The Superintendent may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the town, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance.

(Ord. 2000-11B, passed 11-28-00)

§ 52.134 LIABILITY INSURANCE.

The Superintendent may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(Ord. 2000-11B, passed 11-28-00)

§ 52.135 WATER SUPPLY SEVERANCE.

Whenever a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply with the foregoing.

(Ord. 2000-11B, passed 11-28-00)

§ 52.136 PUBLIC NUISANCES.

A violation of any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement is declared a public nuisance and shall be corrected or abated as directed by the Superintendent. Any person(s) creating a public nuisance shall be subject to the provisions of this chapter governing such nuisances, including reimbursing the town for any costs incurred in removing, abating or remedying the nuisance.

(Ord. 2000-11B, passed 11-28-00)

§ 52.137 INFORMANT REWARDS.

The Superintendent may pay up to \$250 for information leading to the discovery of noncompliance by a user. In the event that the information provided results in a civil penalty or an administrative fine levied against the user, the Superintendent may disperse up to 10% of the collected fine or penalty to the informant. However, a single reward payment may not exceed \$250.

(Ord. 2000-11B, passed 11-28-00)

§ 52.138 CONTRACTOR LISTING.

Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the town. Existing contracts for the sale of goods or services to the town held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the Council.

(Ord. 2000-11B, passed 11-28-00)

§ 52.139 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.

(A) Upset.

(1) For the purposes of this section, UPSET means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.

(2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (3) below are met.

(3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

(a) An upset occurred and the user can identify the cause(s) of the upset;

(b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;

(c) The user provided the Superintendent with a verbal notification of the upset within two hours of becoming aware of the upset; and

(d) The user submitted the following information to the Superintendent within 24 hours of becoming aware of the upset:

1. A description of the indirect discharge and cause of noncompliance;

2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

3. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(4) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(5) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(6) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation

where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(B) Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 52.020(A) or the specific prohibitions in § 52.020(B)(3) through (16) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the town was regularly in compliance with its NPDES permit (No. IN0020958), and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(C) Bypass.

(1) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BYPASS. The intentional diversion of wastestreams from any portion of a user's treatment facility.

SEVERE PROPERTY DAMAGE. Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (3) and (4) of this section.

(3) (a) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent at least ten days before the date of the bypass, if possible.

(b) A user shall submit oral notice to the Superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within two hours from the time it becomes aware of the bypass. A written submission also shall be provided to the Superintendent within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The Superintendent may waive the written report on a case-by-case basis if the oral report has been received within two hours.

(4) (a) Bypass is prohibited, and the Superintendent may take an enforcement action against a user for a bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The user submitted notices as required under subsection (3) of this section.

(b) The Superintendent may approve an anticipated bypass, after considering its adverse effects, if the Superintendent determines that it will meet the three conditions listed in subsection (4)(a) of this section.

(Ord. 2000-11B, passed 11-28-00)

§ 52.140 PUBLIC NOTICING OF SNC DISCHARGES.

The Superintendent shall, on a yearly basis, publish a listing of individual SIUs found to be in SNC during the previous 12 month period. The notice shall be placed in the legal notice section of the newspaper of largest circulation within the Town of Fortville. This listing shall include the name of the SIU and the basis for SNC determination.

(Ord. 2000-11B, passed 11-28-00)

§ 52.999 PENALTY.

(A) Injunctive relief. When the Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Superintendent may petition the Hancock County Circuit Court through the Town Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by this chapter on the activities of the user. The Superintendent also may seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(B) Civil penalties.

(1) A user who has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement shall be liable to the town for a maximum civil penalty of \$2,500 per violation, per day. In the case of a monthly or other long-term average discharge limit violation, penalties shall accrue for each day during the period of the violation.

(2) The Superintendent may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses and the cost of any actual damages incurred by the town.

(3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions taken by the user, the compliance history of the user and any other factor as justice requires.

(4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(C) Remedies nonexclusive. The remedies provided for in this chapter are not exclusive. The Superintendent and the Council may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations generally will be in accordance with the town's enforcement response plan. However, the Superintendent and the Council may take other action against any user when the circumstances warrant. Further, the Superintendent and the Council are empowered to take more than one enforcement action against any noncompliant user.

(Ord. 2000-11B, passed 11-28-00)

TITLE VII: TRAFFIC CODE

Chapter

- 70. TRAFFIC REGULATIONS
- 71. PARKING REGULATIONS
- 72. TRAFFIC SCHEDULES
- 73. PARKING SCHEDULES

CHAPTER 70: TRAFFIC REGULATIONS

Section

General Provisions

70.01 Definitions

Regulations

- 70.15 Horse regulations
- 70.16 Regulations for cargo over four tons
- 70.17 Use of public streets and sidewalks
- 70.18 Railroad regulations

GENERAL PROVISIONS

§ 70.01 DEFINITIONS.

Words and phrases not specifically defined in this title shall be governed by the definitions set forth in the Uniform Act Regulating Traffic on Highways, I.C. 9-21-1-1 et seq.

(⁸⁷ Code, § 8-1)

REGULATIONS

§ 70.15 HORSE REGULATIONS.

(A) Horses permitted upon public streets.

(1) No person shall permit a horse owned by him or her or under his or her control to be within the town limits, including the park, except upon public streets. A sidewalk shall not, for the purposes of this section, be considered to be a part of a public street.

(2) Any person found to be in violation of this section shall be fined as determined by § 10.99. (⁸⁷ Code, § 8-36) (Ord. 1977-7A, passed 7-12-77)

(B) Compliance with signals and signs required.

(1) All intersections of streets of the town now or thereafter marked by automatic stop signals or other signs or signals to indicate the manner of passing said intersections and on all portions of the streets of the town now marked or hereafter to be marked by proper signs and signals that would be readily distinguished as "No Parking"

or "Police Order," places that it shall be unlawful for any person or persons operating any motor vehicle or horse drawn vehicle to pass such intersection without first obeying such sign or signals as indicated thereon.

(2) If such sign or signal, automatic or otherwise, indicates to such person approaching the intersection that he or she shall stop before crossing such intersection and such person so operating any of such vehicles who fails or refuses to obey such stop signals and bring such vehicle operated by him or her to a full stop, until such sign or signal indicated go, shall be guilty of violation of this section and on conviction shall forfeit and pay to the town as damages for the violation as determined by § 10.99.

(`87 Code, § 8-37) (Ord. 3-1925, passed 8-11-25)

§ 70.16 REGULATIONS FOR CARGO OVER FOUR TONS.

(A) Vehicles and the cargo therein that exceed a weight limit of four tons gross shall not be permitted to operate on the streets of Fortville, Indiana, and the necessary signs shall be placed on such streets as designated by the Town Council.

(B) Anyone violating any of the provisions of this section shall be subject to a fine as determined by § 10.99 for each violation thereof.

(`87 Code, § 8-57) (Ord. 1952-, passed 8-19-52)

§ 70.17 USE OF PUBLIC STREETS AND SIDEWALKS.

(A) No person shall walk, stand or run in a public street if it obstructs vehicle traffic on a street or pedestrian traffic on a sidewalk, or if it is a public safety hazard.

(B) No person may sell or solicit in a public street without a permit.

(C) No objects other than vehicles may be placed upon streets or sidewalks without a permit. This prohibition includes equipment for basketball, hockey or other games.

(D) No person shall play on a street.

(E) No person shall park an inoperable or unlicensed vehicle on a street.

(F) No person may work on a vehicle on a public street for more than one hour if it is on jacks or blocks, and then only if attended by a person over the age of 18 years.

(G) Any person found to be in violation of this section shall be fined as determined by § 10.99. The fine may be paid to the Fortville Violations Bureau. Property placed upon the streets or sidewalks in violation of this section will be seized and held until the fine is paid.

(Am. Ord. 1998-5B, passed 6-9-98)

§ 70.18 RAILROAD REGULATIONS.

(A) Maintenance of railroad crossings.

(1) There shall be maintained by all railroads a smooth and level crossing at all railroad crossings of Main Street and the first alley west of Main Street. The crossings shall be the complete width of the right-of-way of the street and alley.

(2) Any person or corporation violating any provision of this division shall be fined as determined by § 10.99. Each day that a person or corporation is found to be in violation of this division shall constitute a separate offense.

(`87 Code, § 8-44) (Ord. 1965-6A, passed 6-22-65)

(B) Railroad right-of-way. All vehicles crossing the railroad right-of-way at the alley between Main street and Merrill Street shall come to a stop before entering the

intersection and shall yield the right-of-way to all vehicles traveling upon the railroad tracks. ('87 Code, § 8-45) (Ord.1966-, passed 7-26-66)

Statutory reference:

Construction, repairs and maintenance of railroad crossings, see I.C. 8-6-1-1

Railroad right-of-way rules and regulations, see I.C. 8-3-1-1

CHAPTER 71: PARKING REGULATIONS

Section

71.01 Parking near fire hydrants

71.02 Parking near intersections

71.03 Angle parking

71.04 Parking citations

71.05 Towing vehicles

§ 71.01 PARKING NEAR FIRE HYDRANTS.

No motor vehicle may be parked within 15 feet of a fire hydrant. In addition to other penalties provided, such vehicles may be immediately towed away at the violator's expense.

('87 Code, § 8-10) (Ord. 1978-5C, passed 5-23-78)

Statutory reference:

Parking near a fire hydrant, see I.C. 9-21-16-5

§ 71.02 PARKING NEAR INTERSECTIONS.

No motor vehicle may be parked within 20 feet of the intersecting extension of curb lines, or if there are no curbs, within 20 feet of the intersecting extensions of the traveled portion of the street.

('87 Code, § 8-11) (Ord. 1978-5C, passed 5-23-78)

§ 71.03 ANGLE PARKING.

Where angle parking is permitted, no one shall back a vehicle into the parking space except for the purpose of loading or unloading.

(Am. Ord. 1993-1C, passed 2-9-93)

§ 71.04 PARKING CITATIONS.

Any vehicle that has accumulated three or more unpaid citations under this chapter may, upon receiving additional citations, be towed and impounded to secure payment of the citations and the cost of towing.

('87 Code, § 8-17) (Ord. 1977-9A, passed 9-13-1977; Am. Ord. 1993-1C, passed 2-9-93)

§ 71.05 TOWING VEHICLES.

Vehicles that are parking where parking is not authorized, and unauthorized vehicles in handicapped parking spaces, may be towed and impounded until the owner of the vehicle pays the cost of towing.

(Am. Ord. 1993-1C, passed 2-9-93)

CHAPTER 72: TRAFFIC SCHEDULES

Schedule

I. Speed limits

II. One-way traffic designations

III. No exit alleys

IV. Preferential streets

SCHEDULE I. SPEED LIMITS.

(A) No person may operate a motor vehicle on any town residential street in excess of a speed of 25 miles per hour.

(B) No person may operate a motor vehicle on the specified arterial streets in excess of a speed of 30 miles per hour. The specified arterial streets are:

(1) East Garden Street: beginning approximately 275 feet east from the intersection of Garden Street and Poplar Street and proceeding east to municipal limits.

(2) West Garden Street: beginning at the intersection of State Road 67 and Garden Street and proceeding west and continuing to municipal limits.

(3) Maple Street: beginning at the intersection of Garden and Maple Street and proceeding south to the municipal limits.

(4) 300 West: beginning at the intersection of Garden Street and 300 West and proceeding south to the municipal limits.

(5) East Ohio Street: beginning approximately 300 feet east of the Emerson Street and Ohio Street intersection and proceeding east to the municipal limits.

(C) No person may operate any street in Memorial Park in excess of a speed of 15 miles per hour.

(D) No person may operate a motor vehicle within the specified school zone while children are present in excess of 25 miles per hour: from the intersection of Maple Street and Garden Street proceeding south 600 feet and from the same intersection proceeding east 855 feet.

(` 87 Code, § 8-26) (Ord. 1983-6B, passed 6-28-83; Am. Ord. 1993-9A, passed 9-14-93; Am. Ord. 2000-10B, passed - -00; Am. Ord. 2001-7A, passed - -01; Am. Ord. 2002-6A, passed 7-24-02)

SCHEDULE II. ONE-WAY TRAFFIC DESIGNATIONS.

(A) There shall be one-way traffic only on the following streets:

(1) Mill Street from Main Street to Merrill Street, westbound traffic only;

(2) Vehicular traffic on Main Street shall move only south between State Road No. 67 and Garden Street;

(3) The alley beginning immediately north and east of the railroad tracks on Main Street is designated as a one-way alley running from Main Street to Staat Street.

(B) Any person found to be in violation of this schedule shall be fined in an amount as determined by § 10.99.

(` 87 Code, § 8-39) (Ord. 1963-, passed 3-12-63; Ord. 1969-7A, passed 7-8-69; Am. Ord. 1994-5A, passed 5-10-94)

SCHEDULE III. NO EXIT ALLEYS.

(A) No motor vehicle traveling in a southerly direction may enter State Road 67 from the alley located between Main Street and Oak Street.

(B) Any person found to be in violation of this section shall be fined in an amount determined by § 10.99.

(Ord. 1989-3A, passed 3-28-89)

SCHEDULE IV. PREFERENTIAL STREETS.

(A) The streets set out in Column A are preferential through streets. The streets set out in Column B shall come to a complete stop and yield the right-of-way to vehicles traveling streets set out in Column A.

Column A	Column B
Alden Dr.	Sunset Lane
Alden Dr.	Laurel Dr.
Alden Dr.	Holiday Dr.
Beacon Point Lane	Lighthouse Drive
Beacon Point Lane	Bluff Creek Drive
Beacon Point Lane	Breakers Lane
Bluff Creek Drive	Flatrock Blvd.
Brooks Dr.	Berkley Dr.
Brooks Dr.	Holiday Dr.
Carolina St.	School St.
Center St.	Vera Court
Center St.	Monroe St.
Church St.	School St.
Delaware St.	Peony St.
Delaware St.	Tulip St.
Delaware St.	Center St.
Emerson Dr.	Motel Dr.
Emerson Dr.	Linda Dr.
Garden St.	Peach Blossom Dr.
Garden St.	Merrill St.
Garden St.	Swan Dr.
Garden St.	Staat St.
Garden St.	Flatrock Blvd.
Garden St.	Oak St.
Garden St.	Poplar St.
Garden St.	Main St.
Garden Street	300 West
Holiday Dr.	Bradley Dr.
Leland St.	Ohio St.
Leland St.	Monroe St.
Leland St.	Church St.
Leland St.	Virginia St.
Leland St.	Carolina St.
Leland St.	Illinois St.
Madison St.	Mill St.
Madison St.	Pearl St.
Madison St.	Staat St.
Madison St.	Ohio St.
Madison St.	Ash St.
Main St.	Pearl St.
Main St.	Park St.

Main St.	Church St.
Main St.	Mill St.
Main St.	Ohio St.
Main St.	High St.
Main St.	Staat St.
Maple St.	Saundra Dr.
Maple St.	Main (Pearl) St.
Maple St.	Garden St.
Maple St.	Park St.
Maple St.	High St.
Merrill St.	Church St.
Merrill St.	High St.
Merrill St.	Mill St.
Michigan St.	Center St.
Michigan St.	Leland St.
Michigan St.	School St.
Michigan St.	Main St.
Mill St.	Ohio St.
Mill St.	Poplar St.
Mill St.	Noel Ave.
Mill St.	Walnut St.
Mill St.	McCarty St.
Mill St.	Ash St.
New York St.	Mendora St.
New York St.	Leland St.
New York St.	Tulip St.
Oak St.	High St.
Oak St.	Noel Ave.
Oak St.	Park St.
Ohio St.	Emerson Dr.
Ohio St.	School St.
Ohio St.	Church St.
Peach Blossom Dr.	Cherry Blossom Lane
Pearl St.	Walnut St.
Pearl St.	Elm St.
Pearl St.	Ash St.
Pearl St.	Noel Ave.
Pearl St.	Poplar St.
Peony St.	Virginia St.
Poplar St.	High St.
Poplar St.	Park St.
Saundra Dr.	Peach Blossom Dr.
Staat St.	Leland St.
Staat St.	School St.
Staat St.	Noel Ave.
Staat St.	McCarty St.

Staat St.	Church St.
State Road 67	300 West
Swan Dr.	Garden Court
Swan Dr.	Swan Court
Swan Dr.	Bridge Court
Swan Dr.	Saundra Dr.
Walnut St.	High St.

(B) All vehicles entering the intersections of the following streets shall come to a complete stop and yield the right-of-way to any motor vehicle already in the intersection:

- (1) Laurel Lane and Brooks Dr.;
- (2) Sunset Lane, Brooks Dr., Holiday Dr.;
- (3) Brooks Dr. and Bradley Dr.;
- (4) Berkley Dr. and Alden Dr.;
- (5) Delaware St. and Leland St.;
- (6) Main St. and Delaware St.;
- (7) Main St. and Carolina St.;
- (8) Hamilton St. and Leland St.;
- (9) Hamilton St. and Center St.;
- (10) Illinois St. and Center St.;
- (11) Ohio St. and Merrill St.;
- (12) Ohio St. and Staat St.;
- (13) Church St. and McCarty St.;
- (14) Staat St. and Merrill St.;
- (15) Pearl St. and Oak St.;
- (16) Brooks Dr. and Holiday Dr.;
- (17) Merrill St. and Church St.;
- (18) Thomas Point Dr. and Beach Point Lane.

(C) All non-paved streets of 15 feet width or less are designated as alleys. All vehicles traveling on an alley shall come to a complete stop and yield the right-of-way to vehicles traveling any street.

(D) All paved streets of 15 feet width or less are designated as minor streets. All vehicles traveling on a minor street shall come to a complete stop and yield the right-of-way to vehicles traveling any street.

(E) Any person found in violation of this section shall be fined in an amount determined by § 10.99.

(Ord. 2000-4A, passed 4-25-00; Am. Ord. 2002-6B, passed 6-11-02)

CHAPTER 73: PARKING SCHEDULES

Schedule

- I. Parking regulations
- II. Large vehicle parking regulations
- III. Two-hour parking limits
- IV. Parallel parking
- V. Parking prohibited during certain hours

SCHEDULE I. PARKING REGULATIONS.

There shall be no parking in the parking areas located on the following named streets in the Town of Fortville:

Street Intersection Parking Regulation

Alden Dr., north side No parking

All streets in the town with sidewalks No parking on or across either the sidewalk or the grassy area between street and sidewalk

All streets in town with no curbs No parking on the travel portion of the roadway

Ash St., west side from Mill Street to Madison Street No parking

Berkley Dr., west side No parking

Brooks Dr., north side No parking

Brooks Dr., south side, 50 feet either direction from the intersection of Laurel Lane and Brooks Dr. No parking

Center St., west side from Michigan St. to Delaware St. No parking

Church St., south side No parking between McCarty St. and Main St.

East Staat St., north side, from Main St. to first alley east No parking

Holiday Dr., north and west sides No parking

Laurel Dr., west side No parking

Leland St., west side 100 feet north of Hamilton St. No parking

Leland St., east side, from Hamilton St. to Delaware St. No parking

Leland St., east side, from Staat St. to Ohio St. No parking

Main St., both sides, between Pearl and Staat St. Two-hour time limit from 8:00 a.m. to 6:00 p.m. on all days except Sunday and legal holidays

Main St., both sides, from Pearl St. to Church St. No parking from 4:00 a.m. to 6:00 a.m.

Main St., west side between SR 67 and Garden St. No parking

Maple St. between Main St. and SR 67 No parking

Maple St. from SR 67 to town limits No parking

McCarty St., east side from SR 67 to Mill Street No parking

McCarty St., west side, from SR 67 north to 300 block McCarty No parking

McCarty St., west side, 25 feet south of Mill St. No parking

Merrill St., either side from Ohio St. to Michigan St. No parking

Merrill St., east side, 25 feet north of Staat St. No parking

Merrill St., 50 feet south of SR 67 No parking

Merrill St., west side, from Church St. to Staat St. No parking

Merrill St., west side from SR 67 to town limits No parking

Mill St. at Madison St. No parking 100 feet from the intersection

Mill St., either side from Main St. to Oak St. No parking

Mill St., from Merrill St. to Baker St. No parking

Mill St., north side, between Oak St. and Madison St. No parking

Ohio St., north and south sides from Main St. to Merrill St. No parking

Ohio St., 300 feet west of Merrill St. to Fortville town limits No parking

Ohio St., south side, from Merrill St. to 300 feet west of Merrill St. No parking

Old Bridge Addition and Blossom Trace Addition One side parking as designated by signage

Park St., south side from Walnut Street to Poplar Street No parking

Pearl St., south side, between Main St. and Noel Ave. No parking
Poplar St. and SR 67 No parking on Poplar Street 50 feet from the intersection north and south sides of SR 67
Poplar St. from Garden St. north to 50 feet north of the curve No parking
Staat Street, north side No parking west from Main St. to city limits
Sunset Lane, west side No parking
Veteran's Court, west side No parking between Staat St. and Church St.
Walnut St., west side from Mill Street to SR 67 No parking
Walnut St., west side from SR 67 to Park Street No parking
West Church St., south side, from Main St. to McCarty St. No parking
West Staat St., north side from Main Street to city limits No parking
West Staat St., west 300 block No parking 150 feet west and east of the curve on both sides of street
No parking of any nonmotorized vehicles for more than 72 consecutive hours
No parking of properly registered vehicles on town streets for two consecutive weeks
Parking prohibited on town streets of vehicles of five tons in weight and above for not more than 24 hours in one location

(Ord. 2000-9A, passed - -00; Am. Ord. 2002-12C, passed 1-14-03)

SCHEDULE II. LARGE VEHICLE PARKING REGULATIONS.

No vehicle with an overall length of more than 25 feet shall park on either side of Main Street between Pearl Street and Church Street, except for the purpose of loading or unloading.

('87 Code, § 8-6) (Ord. 1963-, passed 3-12-63)

SCHEDULE III. TWO-HOUR PARKING LIMITS.

There shall be a two hour parking limit from 8:00 a.m. to 6:00 p.m. on all days except Sunday and legal holidays at the locations on the following named streets:

(A) Both sides of Main Street, between Church Street and Broadway Street, excepting the parking area on the east side of Main Street, between Pearl Street and Highway No. 67, and excepting the parking area in front of the United States Post Office located on the west side of Main Street between Staat Street and Church Street, and excepting the parking area on the east side of Main Street between Staat Street and Church Street;

(B) The north side of Staat Street from Merrill Street to School Street, except at such times and places as no parking is permitted under Schedule I.

('87 Code, § 8-7) (Ord. 1963-, passed 3-12-63)

SCHEDULE IV. PARALLEL PARKING.

All motor vehicles must be parked parallel to the curb and with the flow of traffic on the side of the street upon which it is parked on all streets in the town and must be parked within 12 inches of the curb. In areas marked for diagonal parking, motor vehicles must be parked in such places with the flow of traffic.

(Ord. 2000-9A, passed - -00; Am. Ord. 2002-12C, passed 1-14-03)

SCHEDULE V. PARKING PROHIBITED DURING CERTAIN HOURS.

(A) There shall be no parking on any posted street on Thursdays from 3:00 a.m. to 6:00 a.m. and on Fridays from 3:00 a.m. to 6:00 a.m.

(B) There shall be no parking on Main Street from 3:00 a.m. to 6:00 a.m. on Fridays between Church Street and Pearl Street.

('87 Code, § 8-14) (Ord. 1964-, passed 7-7-64; Ord. 1971-11A, passed 11-9-71)

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. FAIR HOUSING
- 91. PARKS AND RECREATION
- 92. HEALTH AND SAFETY; NUISANCES
- 93. ANIMALS
- 94. STREETS AND SIDEWALKS
- 95. TREES

CHAPTER 90: FAIR HOUSING

Section

- 90.01 Policy
- 90.02 Definitions
- 90.03 Unlawful practice
- 90.04 Discrimination in the sale or rental of housing
- 90.05 Discrimination in residential real estate-related transactions
- 90.06 Discrimination in the provision of brokerage services
- 90.07 Interference, coercion or intimidation
- 90.08 Prevention of intimidation in fair housing cases
- 90.09 Exemptions
- 90.10 Enforcement

§ 90.01 POLICY.

It shall be the policy of the Town of Fortville to provide, within constitutional limitation, for fair housing throughout its corporate limits as provided for under the Federal Civil Rights Act of 1968, as amended, the Federal Housing and Community Development Act of 1974, as amended, and I.C. 22-9.5-1 et seq.

(Ord. 1994-9A, passed 9-13-94)

§ 90.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGGRIEVED PERSON. Any person who:

- (1) Claims to have been injured by a discriminatory housing practice;

or

- (2) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

(I.C. 22-9.5-2-2)

COMMISSION. The Indiana Civil Rights Commission created pursuant to I.C. 22-9.5-4 et seq. (I.C. 22-9.5-2-3)

COMPLAINT. A written grievance filed with the Town of Fortville, either by a complainant or another party, which meets all the requirements of § 90.10(B) and (C).

COMPLAINANT. A person, including the Commission, who files a complaint under I.C. 22-9.5-6. (I.C. 22-9.5-2-4)

COVERED MULTI-FAMILY DWELLINGS. This term means:

(1) Buildings consisting of four or more units if the buildings have one or more elevators; and

(2) Ground-floor units in other buildings consisting of four or more units.

DISABILITY. With respect to a person:

(1) A physical or mental impairment which substantially limits one or more of such person's major life activities;

(2) A record of having such an impairment; or

(3) An impairment described or defined pursuant to the Federal Americans with Disabilities Act of 1990;

(4) Any other impairment defined under I.C. 22-9.5-2-10.

(5) The term **DISABILITY** shall not include current illegal use of or addiction to a controlled substance, as defined in 21 USC 802 (I.C. 22-9.5-2-10(b)) or psychoactive substance use disorders resulting from current illegal use of drugs;

(6) An individual shall not be considered handicapped or disabled solely on the basis of the following:

(a) Homosexuality;

(b) Bisexuality;

(c) Transvestism (I.C. 22-905-2-10(c)), transsexualism, edophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments or other sexual behavior disorders; or

(d) Compulsive gambling, kleptomania or pyromania.

DWELLING. Any:

(1) Building, structure or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families; or

(2) Vacant land which is offered for sale or lease for the construction or location of a building, structure or part of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families.

(IC 22-9.5-2-8)

FAMILIAL STATUS. Discrimination on the basis of familial status means discrimination because the person is (1) pregnant; (2) domiciled with an individual under the age of 18 years of age in regard to whom the person is (a) the parent or legal custodian; or (b) has the written permission of the parent or legal custodian for domicile with that person; or (3) in the process of obtaining legal custody of an individual younger than 18 years of age.

FAMILY. An individual (I.C. § 22-9.5-2-9) or individuals having familial status as that term is defined in this section.

OWNER. The person holding legal or equitable title to property or his or her legal representative.

OWNER OCCUPIED. Any individual who:

(1) Is a titleholder of record or contract purchaser of the real property in question, and, in addition;

(2) Continued to occupy and reside in the property as his or her principal dwelling place at the time the alleged discriminatory act occurs.

PERSON. Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, non-incorporated organizations, trustees, trustees in cases under Title 11 of the United States Code, receivers and fiduciaries.
(I.C. 22-9.5-2-11)

TO RENT. To lease, to sublease, to let and otherwise to grant for a consideration the right to occupy the premises not owned by the occupant.
(I.C. 22-9.5-2-13)

(Ord. 1994-9A, passed 9-15-94)

§ 90.03 UNLAWFUL PRACTICE.

Subject to the provisions of division (B) of this section, § 90.09 and I.C. 22-9.5-3, the prohibitions against discrimination in the sale or rental of housing set forth in I.C. 22-9.5-5-1 and in § 90.04 shall apply to:

(A) All dwellings except as exempted by division (B) of this section and I.C. 22-9.5-3;

(B) Other than the provisions of division (C) of this section, nothing in § 90.04 shall apply to:

(1) Any single-family house sold or rented by an owner where the private individual owner does not own more than three such single-family houses at any one time, provided that in the sale of such single-family house by a private individual owner not residing in the house at the time of sale or who was not the most recent resident of such house prior to the sale; the exemption shall apply only to one such sale within any 24-month period. The private individual owner may not own any interest in, nor have owned or reserved on his or her behalf, title to or any right to all or a portion of the proceeds from the sale or rental of three or more such single-family houses at any one time. The sale or rental of any such single-family house shall be excepted from application of this section only if such house is sold or rented:

(a) Without the use in any manner of the sales or rental facilities or services of any real estate broker, agent or salesperson or any person in the business of selling or renting dwellings or of any employee or agent of any such broker, agent or salesperson or person; and

(b) Without the publication, posting or mailing, after notice of advertisement or written notice in violation of § 90.04(C), but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstracters, title companies and other such professional assistance as necessary to perfect or transfer this title; or

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

(C) For the purposes of division (B) of this section, a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; or

(2) He or she has, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence, in providing sales or

rental facilities or services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or

(3) He or she is the owner of any dwelling unit designed or intended for occupancy by, or occupied by, five or more families.

(Ord. 1994-9A, passed 9-15-94)

§ 90.04 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.

As made applicable by § 90.03 and except as exempted by § 90.03(B) or § 90.09, it shall be unlawful:

(A) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status or national origin;

(B) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status or national origin;

(C) To make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin or an intention to make any such preference, limitation or discrimination;

(D) To represent to any person because of race, color, religion, sex, handicap, familial status or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available;

(E) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or perspective entry into the neighborhood of a person or persons or a particular race, color, religion, sex, handicap, familial status or national origin;

(F) (1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:

(a) That buyer or renter;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or

(c) Any person with that person;

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:

(a) That buyer or renter;

(b) A person residing in or intending to reside in that dwelling after it is so sold, rented or made available; or

(c) Any person with that person.

(3) For purposes of this division, DISCRIMINATION includes:

(a) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior

of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(b) A refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(c) In connection with the design and construction of covered multi-family dwellings for first occupancy after the date that is 30 months after September 13, 1988, a failure to design and construct those dwellings in such a manner that:

1. The public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

2. All doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

3. All premises within such dwellings contain the following features of adaptive design:

a. An accessible route into and through the dwelling;

b. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

c. Reinforcements in bathroom walls to allow later installation of grab bars; and

d. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements the Americans With Disabilities Act of 1990 and of the American National Standards Institute (ANSI) standards for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as “ANSI A117.1”) suffices to satisfy the requirements of (F)(3)(c)3.

(5) Nothing in this division requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

(Ord. 1994-9A, passed 9-15-94)

§ 90.05 DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.

(A) It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status or national origin.

(B) As used in this section, the phrase RESIDENTIAL REAL ESTATE-RELATED TRANSACTION means any of the following:

(1) The making or purchasing of loans or providing other financial assistance:

(a) For purchasing, constructing, improving, repairing or maintaining a dwelling; or

(b) Secured by residential real estate.

(2) The selling, brokering or appraising of residential real property.

(C) Nothing in this chapter prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap or familial status.

(Ord. 1994-9A, passed 9-15-94) Penalty, see § 10.99

§ 90.06 DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.

It shall be unlawful to deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings or to discriminate against him or her in the terms or conditions of such access, membership or participation on account of race, color, religion, sex, handicap, familial status or national origin.

(Ord. 1994-9A, passed 9-15-94) Penalty, see § 10.99

§ 90.07 INTERFERENCE, COERCION OR INTIMIDATION.

It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of or on account of his or her having exercised or enjoyed or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of any right granted or protected by §§ 90.03 through 90.06.

(Ord. 1994-9A, passed 9-15-94) Penalty, see § 10.99

§ 90.08 PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES.

Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with or attempts to injure, intimidate or interfere with:

(A) Any person because of his or her race, color, religion, sex, handicap, familial status or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, renting, financing or occupation of any dwelling or applying for or participating in any service, organization or facility relating to the business of selling or renting dwellings; or

(B) Any person because he or she is or has been or in order to intimidate such person or any other person or any class of persons from:

(1) Participating, without discrimination on account of race, color, religion, sex, handicap, familial status or national origin in any of the activities, services, organizations or facilities described in division (A) of this section; or

(2) Affording another person or class of persons opportunity or protection so to participate; or

(C) Any citizen because he or she is or has been or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, sex, handicap, familial status or national origin, in any of the activities, services, organizations or facilities described in division (A) of this section or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to participate shall be fined not more than \$1,000 or, if bodily injury, results shall be fined not more than \$2,500.

(Ord. 1994-9A, passed 9-15-94)

§ 90.09 EXEMPTIONS.

(A) Exemptions defined or set forth under I.C. 22-9.5-3 et seq. shall be exempt from the provisions of this chapter to include those activities or organizations set forth under divisions (B) and (C) of this section.

(B) Nothing in this chapter shall prohibit a religious organization, association or society or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to membership in such religion restricted on account of race, color or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which has an incident to its primary purpose or purposes from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(C) (1) Nothing in this chapter regarding familial status shall apply with respect to housing for older persons.

(2) As used in this section, the phrase HOUSING FOR OLDER PERSONS means housing:

(a) Provided under any state or federal program that the Secretary of the Federal Department of Housing and Urban Development or the State Civil Rights Commission determines is specifically designed and operated to assist elderly persons (as defined in the state or federal program); or

(b) Intended for, and solely occupied by, persons 62 years of age or older; or

(c) Intended and operated for occupancy by at least one person 55 years of age or older per unit.

(3) Housing that includes units that are unoccupied or that are occupied by persons who do not meet the age requirement of divisions (B) or (C) does not fail to meet the requirements for housing older persons if:

(a) The unoccupied units are reserved for persons who meet the age requirements of divisions (B) or (C); or

(b) The occupants who do not meet the age requirements of divisions (B) or (C) have resided in the housing since September 13, 1988 or an earlier date, and the persons who become occupants after September 13, 1988 meet the age requirements of divisions (B) or (C).

(4) The Town of Fortville shall adopt rules under I.C. 4-22-2 to establish criteria for matching determinations under subsection (2). These rules must include at least the following provisions:

(a) Except as provided in the following subsection (b), the housing must provide significant facilities and services specifically designed to meet the physical or social needs of older persons;

(b) If the provision of the facilities and services described in subsection (a) is not practicable, the housing must be necessary to provide important housing opportunities for older persons.

(c) At least 80% of the units must be occupied by at least one person who is at least 55 years of age.

(d) The owner or manager of the housing must publish and adhere to provide housing for persons who are at least 55 years of age.

(Ord. 1994-9A, passed 9-15-94)

§ 90.10 ENFORCEMENT.

(A) The authority and responsibility for properly administering this chapter and referral of complaints hereunder to the Commission as set forth in division (B) of this section shall be vested in the chief executive officer of the Town of Fortville, Indiana.

(B) A complaint concerning an alleged discriminatory housing practice must be:

- (1) In writing;
- (2) Under oath; and
- (3) Addressed to the Town Manager of Fortville.

(C) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, file a complaint with the Commission (as delineated in division (D)) alleging the discriminatory housing practice.

(D) Notwithstanding the provisions of I.C. 22-9.5-4-8, the Town of Fortville, Indiana, because of a lack of financial and other resources necessary to fully administer enforcement proceedings and possible civil actions under this chapter, herein elects to refer all formal complaints of violation of the this chapter by complainants to the Indiana Civil Rights Commission ("Commission") for administrative enforcement actions pursuant to I.C. 22-9.5-6; the chief elected officer of the Town of Fortville, Indiana, shall refer all the complaints to the Commission as provided for under division (A) of this section to the Commission for purposes of investigation, resolution and appropriate relief as provided for under I.C. 22-9.5-6.

(E) Not later than one year after an alleged discriminatory housing practice has occurred or terminated, whichever is later, the Commission may file the Commission's own complaint.

(F) A complaint under this section may be amended at any time.

(G) When a complaint is filed under this section, the Town of Fortville shall do the following:

- (1) Give the aggrieved person notice that the complaint has been received;
- (2) Advise the aggrieved person of the time limit and choice of forums under this section;
- (3) The chief executive officer of the Town of Fortville, Indiana, or the chief executive officer's designee, shall provide information on remedies available to any aggrieved person or complainant requesting such information;
- (4) Not later than 20 days after filing of the complaint or the identification of an additional respondent under this section, serve on each respondent:
 - (a) A notice identifying the alleged discriminatory practice and advising the respondent of the procedural rights and obligations of a respondent under this section; and
 - (b) A copy of the original complaint.

(H) All executive departments and agencies of the Town of Fortville, Indiana, shall administer their departments, programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this chapter and shall cooperate with the chief executive officer and the Commission to further such purposes.

(Ord. 1994-9A, passed 9-15-94)

CHAPTER 91: PARKS AND RECREATION

Section

- 91.01 Authority to operate
- 91.02 Department of Parks and Recreation
- 91.03 Alcoholic beverages prohibited
- 91.04 Speed limits
- 91.05 Park closing time
- 91.06 No camping
- 91.07 Domestic animals
- 91.08 Dangerous weapons

§ 91.01 AUTHORITY TO OPERATE.

The town may establish, aid, maintain and operate public parks, playgrounds and recreation facilities and programs.

(`87 Code, § 5-1)

Statutory reference:

Recreation facilities and programs, see I.C. 36-10-2-2

§ 91.02 DEPARTMENT OF PARKS AND RECREATION.

(A) Department created. There is created the Fortville Department of Parks and Recreation pursuant to I.C. 36-10-3. (`87 Code, § 5-5)

(B) Powers and duties. The Fortville Department of Parks and Recreation shall have all of the rights, powers and duties as set out in I.C. 36-10-3. (`87 Code, § 5-6)

(Ord. 1984-6A, passed 6-12-84)

§ 91.03 ALCOHOLIC BEVERAGES PROHIBITED.

No person shall consume or possess alcoholic beverages in a town park.

(`87 Code, § 5-12) (Ord. 1976-6D, passed 6-22-76; Am. Ord. 1993-1C, passed 2-9-93)

Penalty, see § 10.99

§ 91.04 SPEED LIMITS.

No person driving a motor vehicle shall exceed the speed of 15 mph while traveling on Church Street in the Fortville Town Park.

(`87 Code, § 5-13) (Ord. 1976-6D, passed 6-22-76) Penalty, see § 10.99

§ 91.05 PARK CLOSING TIME.

No person may enter a town park between 11:00 p.m. and sunrise without the permission of the Fortville Park and Recreation Board or the Town Manager.

(Am. Ord. 1993-1C, passed 2-9-93) Penalty, see § 10.99

§ 91.06 NO CAMPING.

No person may camp in a town park without the permission of the Fortville Park and Recreation Board or the Town Manager.

(Am. Ord. 1993-1C, passed 2-9-93) Penalty, see § 10.99

§ 91.07 DOMESTIC ANIMALS.

No person may permit a domestic animal in a town park unless the animal is on a leash.

(Am. Ord. 1993-1C, passed 2-9-93) Penalty, see § 10.99

§ 91.08 DANGEROUS WEAPONS.

No person may use a weapon that is dangerous to others within a town park.

(Am. Ord. 1993-1C, passed 2-9-93) Penalty, see § 10.99

CHAPTER 92: HEALTH AND SAFETY; NUISANCES

Section

General Provisions

92.01 Burning regulations; open burning

92.02 Noise regulations

92.03 Cutting weeds and rank vegetation

Litter

92.15 Definitions

92.16 Litter in public places

92.17 Placement of litter in receptacles

92.18 Depositing litter in gutters

92.19 Litter from a vehicle

92.20 Littering in parks

92.21 Handbills

92.22 Dropping litter from aircraft

92.23 Deposit of litter on occupied private property

92.24 Maintenance of litter-free premises

92.25 Vacant lots

92.26 Receptacles

92.27 Unsightly premises

92.28 Abatement

92.99 Penalty

GENERAL PROVISIONS

§ 92.01 BURNING REGULATIONS; OPEN BURNING.

(A) Only dry, easily combustible material that burns cleanly may be burned within the town limits and then only under the following conditions:

(1) All burning must occur between the hours of 8:00 a.m. and 5:00 p.m.;

(2) All burning, except for leaves, must be done in a container that is capable of being closed;

(3) No burning may occur on paved streets or alleys;

(4) The burning of leaves that are not in a container must be supervised continuously until the fire is completely out.

(87 Code, § 6-27) (Ord. 1984-11A, passed 11-13-84)

(B) No person shall openly burn any material, except that wood products may be burned under the following conditions:

(1) Only between 8:00 a.m. and 5:00 p.m.;

(2) In a noncombustible container with enclosed sides, a bottom and a mesh covering with openings no larger than ¼ inch square;

(3) Fires shall be attended at all times until completely extinguished;

(4) If fires create an air pollution problem, a nuisance or a fire hazard, they shall be extinguished;

(5) No burning shall be conducted during unfavorable meteorological conditions such as temperature inversions, high wind or air stagnation.

(Am. Ord. 1993-1C, passed 2-9-93) Penalty, see § 92.99

§ 92.02 NOISE REGULATIONS.

(A) Public nuisance declared.

(1) The making and creation of loud, unnecessary or unusual noises of various kinds and by various means within the limits of this town have so increased as to constitute a public nuisance.

(2) The making, creation or maintenance of such loud, unnecessary, unnatural or unusual noises which are prolonged in their time, place and use, affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of this town.

(3) The necessity in the public interest for the provisions and prohibitions hereinafter contained and ordained is declared, as a matter of legislative determination for this declaration of public policy, to be designed to secure and promote the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the inhabitants and visitors in this town.

(^87 Code, § 6-48)

(B) Noise prohibited. It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the town. (^87 Code, § 6-49)

(Ord. passed 4-4-61) Penalty, see § 92.99

Statutory reference:

Authorizing a town to regulate noises, see I.C. 36-8-2-8

§ 92.03 CUTTING WEEDS AND RANK VEGETATION.

(A) No property owner may permit weeds or rank vegetation to grow to a height greater than six inches.

(B) The Town Manager or his or her designated representative shall notify any property owner in violation of division (A) of this section that he or she has five days after receipt of the notice to comply. Notice may be served by certified mail or the Town Marshal may personally serve the property owner or post the notice at the entranceway to the structure or property.

(C) If the property owner fails to comply within five days after service, the town may enter the property between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, and cut and remove weeds and rank vegetation by contract or with town employees and bill the property owner for the cost thereof, including administrative costs.

(D) The bill shall be served on the property owner in the same manner as the original notice and shall be paid by him or her to the Clerk-Treasurer within ten days after service. Upon failure to make timely payment, the Clerk-Treasurer shall certify to the Hancock County Auditor the amount of the bill and, pursuant to I.C. 36-7-10.1-4, request that such amount be placed on the tax duplicate of the affected property and be collected in the same manner as delinquent taxes.

(E) If the Town Manager or his or her designated representative shall serve a subsequent notice of violation, the property owner shall be deemed a repeat offender and the property will be maintained by contract or with town employees and bill the property owner for the cost thereof including administrative fees.

(F) A property owner may appeal a notice of violation under division (A) of this section within five days of receipt and may appeal the billing under divisions (C) and

(D) within ten days of receipt. All appeals shall be to the Circuit, Superior or Superior II Courts of Hancock County.

(G) Weeds and rank vegetation include all plant life except:

- (1) Trees;
- (2) Bushes; and
- (3) Flowers, vegetables, and ornamental grasses or plants that are

cultivated and separated from other plant life.

(Ord. 1992-5A, passed 5-12-92; Am. Ord. 2002-6C, passed 6-25-02)

LITTER

§ 92.15 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AIRCRAFT. Any contrivance not known or hereafter invented, used or designed for navigation or for flight in the air, and includes but is not limited to helicopters and lighter-than-air dirigibles and balloons.

AUTHORIZED PRIVATE RECEPTACLE. A litter storage and collection receptacle as required and authorized in this subchapter.

COMMERCIAL HANDBILL. Any newspaper or similar publication containing substantial amounts of matter advertising articles or things for sale or any businesses or services for profit which newspaper or similar publication is in normal course distributed without charge and without subscription therefore by the recipients, and includes, but is not limited to, any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, booklet, paper or any other printed or otherwise reproduced original and copies of any matter or literature which:

- (1) Advertises for sale any merchandise, product, commodity or things;
- (2) Directs attention to any business or mercantile or commercial establishment or activity for the purpose of either directly or indirectly promoting the interest thereof by sales;
- (3) Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of profit; or
- (4) While containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for private benefit and gain for any person so engaged as advertiser or distributor.

LITTER. Garbage, refuse, and rubbish and all other waste material which, if thrown or deposited in a manner prohibited by this subchapter, tends to create a danger to public health, safety and welfare or significantly reduces the aesthetic appearance of public or private property or the public right-of-way.

LITTER RECEPTACLE. A dumpster, trash can, trash bin, garbage can or similar container in which litter is deposited for removal.

NEWSPAPER. Any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States, in accordance with the federal statute or regulation, any newspaper filed and recorded with any recording officer as provided by general law and includes but is not limited to any

newspaper, periodical or current magazine regularly published and sold to the public by subscription.

NONCOMMERCIAL HANDBILL. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the definitions of a commercial handbill.

PARK. A park, reservation, playground, recreation center or any other public area in the town owned or used by the town and devoted to recreation.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

PRIVATE PREMISES. Any dwelling, house, building, multi-family structure or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes but is not limited to any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house building or other structure.

PUBLIC PLACE. Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.

REFUSE. All putrescible and non-putrescible solid wastes except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned, wrecked or junked vehicles or parts thereof and solid market and industrial wastes.

RIGHT-OF-WAY. The entire width between the boundary lines of every way publicly-maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

RUBBISH. Non-putrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, metal, wood, glass, crockery, bedding and similar materials.

VEHICLE. Every device in, upon or by which any person or property is or may be transported or drawn upon a highway.

(Ord. 2002-5A, passed 5-28-02)

§ 92.16 LITTER IN PUBLIC PLACES.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place including freshwater streams, lakes, and ponds within the town except in public receptacles, or in authorized private receptacles for refuse, recycling or yard waste collection or leaf service or other town sponsored collection service.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.17 PLACEMENT OF LITTER IN RECEPTACLES.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried, or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(Ord. 2002-5A, passed 5-28-02)

§ 92.18 DEPOSITING LITTER IN GUTTERS.

No person shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any public or private sidewalk or driveway or any building or lot. Persons owning or occupying property or places of business shall keep the sidewalk and parkway in front of their premises free of litter.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.19 LITTER FROM A VEHICLE.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the town, or upon private property.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.20 LITTERING IN PARKS.

No person shall throw or deposit litter in any park within the town except in public receptacles and in such manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided in this subchapter or as prescribed by other sections of the town's codified ordinances.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.21 HANDBILLS.

(A) Deposit of commercial handbills on public property. No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the town, nor shall any person hand out or distribute or sell any commercial handbill in any public place, but nothing in this section shall be deemed to prohibit any person from handing out or distributing on any sidewalk, street, or other public place within the town, without charge to the receiver thereof, any commercial handbill to any person willing to accept it.

(B) Placing on vehicles. No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle, but it is not unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

(C) Deposited on posted property. No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises, if requested in writing by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof, a sign bearing the words, "No Trespassing," "No Peddlers or Agents," "No Advertisement," or any similar notice, indicating in any manner that the occupants of said premises do not desire to have their right of privacy disturbed, or to have any handbill left upon such premises.

(D) Depositing handbill at inhabited premises; mail and newspapers. No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited unless the handbill is so placed or deposited as to secure or prevent the handbill from being blown or drifted about the premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when so prohibited by federal postal law or regulations. The provisions of this section shall not apply to the distribution of mail by the United States nor of newspapers as defined by this subchapter.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.22 DROPPING LITTER FROM AIRCRAFT.

No person in an aircraft shall throw out, drop or deposit within the town any litter, handbill or any other object.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.23 DEPOSIT OF LITTER ON OCCUPIED PRIVATE PROPERTY.

No person shall throw or deposit litter on any occupied private property within the town, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles or collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon any private property.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.24 MAINTENANCE OF LITTER-FREE PREMISES.

The owner or person in control of any private property shall at all times maintain the premises free of litter; but this section shall not prohibit the storage of litter in authorized private receptacles for collection, or within any building when not in violation of any health, fire, building code or other regulation, order, ordinance or statute.

(Ord. 2002-5A, passed 5-28-02)

§ 92.25 VACANT LOTS.

No person shall throw or deposit litter on any open or vacant private property within the town whether owned by such person or not. Vacant lots shall be kept free of litter at all times by the person responsible for the property.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.26 RECEPTACLES.

(A) Business establishments. Every person owning, or managing, or having charge, control or occupancy of any real property in the town, who maintains a receptacle designated for their use, shall dispose of refuse in such a way that said receptacle shall not overflow and the refuse so deposited shall not circulate freely in the environment.

(B) Sanitary conditions. Every person owning, or managing, or having charge, control or occupancy of any real property in the town who maintain litter receptacles shall maintain such containers and receptacles in good condition. No receptacle may have ragged or sharp edges or any other defect liable to hamper or injure the person depositing or collecting the contents thereof.

(Ord. 2002-5A, passed 5-28-02) Penalty, see § 92.99

§ 92.27 UNSIGHTLY PREMISES.

Every person owning, or managing, or having charge, control or occupancy of any real property in the town shall not allow any part of such property, visible from the street of adjoining premises to become so unsightly or untidy as to substantially detract from the appearance of the immediate neighborhood or tend to threaten the safety and welfare of the immediate neighborhood.

(Ord. 2002-5A, passed 5-28-02)

§ 92.28 ABATEMENT.

(A) Generally. All persons, firms, or corporations owning, leasing or occupying buildings, grounds, or lots are hereby required to remove rubbish, trash, weeds, or other accumulation of filth or debris which constitutes a hazard to the public health, safety and welfare, from buildings, grounds, lots, contiguous sidewalks, streets, and alleys.

(B) Procedure. Any person, whether as principle, manager, agent or employee of the owner, lessee or occupant of any building, grounds or lots who receive notice to abate from the Town Manager or his authorized representative will have five working days from the receipt of the notice to abate litter as described in this section.

(C) Copy of resolution to be served or published. A copy of the notice to abate adopted under this subchapter may be served personally or at the usual place of residence of such owner, occupant or person in charge of such land or by registered mail, or in lieu of such service, may be published for two consecutive weeks in a newspaper of general circulation in the town.

(D) Enforcement. In case of failure or refusal to comply with any such notice of abatement, the work required thereby may be done at the expense of the town and the amount of money expended therefore shall be a valid claim against the owner, occupant or person in charge and a lien upon such land which may be enforced by suit in any court of competent jurisdiction. Proceedings under this division shall not relieve any party defendant from criminal prosecution or punishment for violation of any other criminal law or ordinance in force within the town.

(Ord. 2002-5A, passed 5-28-02)

§ 92.99 PENALTY.

(A) Any person violating any provisions of this chapter will be subject to penalty as a violation of § 10.99.

(B) Each day such violation is committed or permitted to continue after the initial five working days to abate shall constitute a separate offense and shall be punishable as such.

(Ord. 2002-5A, passed 5-28-02)

CHAPTER 93: ANIMALS

Section

General Provisions

93.01 Definitions

93.02 Licensing

93.03 Restraint

93.04 Animal care

93.05 Rabies control

Regulations

93.20 Certain farm animals prohibited

93.21 Noise

93.22 Odor

93.23 Animals within Agricultural Districts

Administration and Enforcement

93.35 Impoundment

93.36 Adoption rules and procedures

93.37 Enforcement

GENERAL PROVISIONS

§ 93.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONMENT. The voluntary relinquishment of possession by the owner with the intention of his or her ownership, but without vesting possession in any other person. The failure to make adequate provisions of food, water and/or shelter shall be prima facie evidence of abandonment.

ANIMAL CONTROL OFFICER. Any person who has been appointed as such by the City of Greenfield.

ANIMAL SHELTER - ANIMAL POUND. Any facility operated by a humane society or Greenfield city agency, or its authorized agents, or operated under contract or agreement with the Greenfield Board of Public Works for the purpose of impounding or caring for animals held under the authority of this chapter.

AT LARGE. Off the premises of the owner while not under the control of the owner or other person by leash, cord, chain or other device of actual physical restraint or under the control of the accompanying owner or other person who has the ability to control the dog by voice command.

BIRDS OF PREY. Members of the Accipitridae, Aquila, Haliaeetus, Falconiformes, Accipiter and Butco family.

DANGEROUS. Able or apt to harm.

EXOTIC. Any animal not naturally found in the State of Indiana.

IDENTIFIED COMPLAINT. A complaint in which the identity of the complainant is known to the Animal Control Officer and whose identity will not be made public but held confidential.

KENNEL, COMMERCIAL. Any facility wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs or cats.

NUISANCE. Any one or more of the following conditions:

(1) A condition which arises by a dog, cat or other animal chasing persons, bicycles, automobiles or other moving vehicles on the streets or sidewalks or any other public area of the city;

(2) A condition which arises by a dog, cat or other animal destroying, defacing or damaging shrubbery, lawns or flowers which results in the general nuisance of citizens in the neighborhood where such dog, cat or other animals are harbored;

(3) A condition which arises by a dog barking consistently so as to disturb the peace of the neighborhood;

(4) A condition which arises from the accumulation of animal excreta on the property of the owner, public or any other citizen so as to cause an obnoxious odor, create a situation which could draw or breed insects, attract vermin or cause a health nuisance;

(5) Any dog on which the tax has not been paid on and after the fifteenth day of June of each year.

OFFICIAL WARNING. A written notice or warning based upon an identified complaint and given to the owner of a dog, cat or other animal by the Animal Control Officer.

OWNER. Any person owning, keeping or harboring a dog, cat or other animal for a period of 48 hours or longer.

PET SHOP. Any person, partnership, corporation or any other business entity other than a licensed kennel, that buys or sells any species of animal.

REPTILE. Any member of a large group of air-breathing scaly vertebrates, including but not limited to snakes, alligators and turtles.

RUNNING IN PACK. Three or more dogs, cats or other animals at large together, which, by repeated or continual presence, constitute a physical danger to a neighborhood, livestock, personal or real property.

VICIOUS ANIMAL. Any animal that has been known to have bitten or otherwise physically molested or inflicted a personal injury upon a human being without provocation; an animal who promiscuously attacks other animals; or any animal otherwise defined in the Indiana Code.

WARM-BLOODED ANIMAL. Any animal that maintains a constant body temperature; all mammals, including dogs, cats and rabbits.

(Ord. 1997-7A, passed 7-15-97)

§ 93.02 LICENSING.

Any person owning, keeping, harboring or having custody of a dog must obtain a license as required by Indiana law, specifically I.C. 15-5-9-1 et seq.

(Ord. 1997-7A, passed 7-15-97)

§ 93.03 RESTRAINT.

(A) Dog at large. It shall be unlawful for an owner or person having custody or control of a dog to allow such animal to repeatedly run at large throughout the town so as to create a public nuisance.

(B) Enclosure of animal in heat. All owners or persons having custody or control shall confine within a completely enclosed building or secure enclosure with no means of escape any dog, cat or other animal when in heat or rutting.

(C) Possession of a vicious animal. It is a violation of this chapter for anyone to own, possess, harbor, maintain or have custody or control over a vicious animal as defined in this chapter at any location within the Town of Fortville, Indiana, other than the Animal Control Officer for purposes of rabies control and/or for the protection of the general public.

(D) Annoyance or disturbance created by animal. It shall be unlawful for any person to keep or harbor within the city an animal that creates a nuisance or which by loud, frequent or habitual barking, howling or yelping causes annoyance or disturbance to the area within said barking, howling or yelping may be heard.

(E) Enclosure of suspected rabid animal. All owners or person(s) having custody of such animal shall confine within a completely enclosed building or secure enclosure with no means of escape, or as otherwise directed by the County Health Department, any warm-blooded animal which has bitten, scratched or caused an abrasion of the skin of any human being, or any warm-blooded animal that is known or suspected of being rabid, in accordance with I.C. 15-2.1-6-11, I.A.C. 410 et seq. and § 93.05.

(F) Trespassing of animal and controller. It shall be unlawful for any owner or person then having custody or control of any dog, cat or other animal to enter upon the private property of another person without consent.

(G) Damage or injury to person or property. It shall be unlawful for any owner or person having custody or control of any dog, cat or other animal to allow such dog, cat or other animal to scratch, bite or otherwise injure any person or other animal or to cause any damage or injury to the personal or real property of another person.

(H) Keeping dangerous reptiles and animals. It shall be unlawful for any person to keep, maintain or have in his or her possession, or under his or her control within the town, any such dangerous reptiles, exotic animals and birds of prey. It shall be

unlawful for any person to display or walk about with any type of snake, birds of prey, dangerous reptiles and exotic animals in a public place.

(Ord. 1997-7A, passed 7-15-97) Penalty, see § 10.99

§ 93.04 ANIMAL CARE.

(A) Provision of care. No owner or person having custody of such animal shall fail to provide his or her animal with sufficient and wholesome food and water, protection from the weather and reasonable care, including veterinary treatment, as may be necessary to prevent suffering. This division shall also apply to animals kept at an animal shelter operated by Animal Control, Humane Society or by anyone in the town.

(B) Classification of a non-commercial kennel. The existence of more than four dogs and/or cats at a residence shall constitute a non-commercial kennel requiring the owner or person possessing said animals to obtain a non-commercial kennel license from the Animal Control Officer. It shall be unlawful for any person to keep or maintain a commercial kennel at a residence or in a residential area. Commercial kennels as defined under § 93.01 are permitted in General Business, Plan Business and Industrial Zoned areas per the Zoning Code governing the Town of Fortville, Indiana. The user fee for a commercial and non-commercial kennel is hereby established in the amount of \$100. Both commercial and non-commercial kennels must comply with Federal Register 9 CFR Part 2 February 15, 1991, Animal Welfare.

(C) Ill treatment. No person shall beat, cruelly ill treat, torment, overload, overwork or otherwise abuse an animal, or cause, instigate or permit a dogfight, cockfight, bullfight or other combat between animals or between animals and humans.

(D) Abandonment. It shall be unlawful for any owner or person having custody of any dog, cat or other animal to abandon the same within the town.

(E) Public disposal of poison liable to be possibly consumed by animals. It shall be unlawful for any person to throw or deposit any poisonous substance in any area of the roads, parks, common yards or other places, whether public or private, within the town so that the same may possibly be consumed by any animal.

(F) Removal of dead animals. Any person who shall become apprized of the death of any dog, cat or other animal owned by him or her or under his or her control shall, immediately thereafter, cause the dog, cat or animal to either be properly interned or shall call the animal shelter to remove the animal from the town. Should the animal be removed by the animal shelter and/or Animal Control Officer, the charge for the removal shall be \$2 for a cat, \$5 for a dog and \$5 for any other animal.

(G) Removal of animal waste. All animal waste on public property or the private property of others shall be immediately removed by the owner of the animal.

(Ord. 1997-7A, passed 7-15-97)

§ 93.05 RABIES CONTROL.

All actions taken in connection with all animals suspected of suffering from rabies shall be in accordance with I.C. 15-2.1-6-11 and all acts amendatory or supplemental thereto as well as I.A.C. 410 et seq and all acts amendatory or supplemental thereto.

(Ord. 1997-7A, passed 7-15-97)

REGULATIONS

§ 93.20 CERTAIN FARM ANIMALS PROHIBITED.

(A) No person may, except under the conditions set out in divisions (B) or (C), keep domestic farm animals, including cows, bulls, pigs, horses, chickens, bees or rabbits.

(B) Division (A) of this section does not apply to property zoned as “Agricultural.”

(C) The Town Marshal may issue a temporary permit to a person to keep domestic farm animals, if such animals will be kept under such circumstances that will not be a public nuisance, so long as he or she complies with other ordinances and the other divisions of this section.

(`87 Code, § 6-1) (Ord. 1984-4A, passed 4-10-84)

§ 93.21 NOISE.

No person may keep an animal which makes noise with sufficient loudness and frequency so as to be a nuisance to other persons.

(`87 Code, § 6-2) (Ord. 1984-4A, passed 4-10-84)

§ 93.22 ODOR.

No person may keep an animal on property where the sanitary conditions result in order or appearance that is so offensive as to be a nuisance to other persons.

(`87 Code, § 6-3) (Ord. 1984-4A, passed 4-10-84)

§ 93.23 ANIMALS WITHIN AGRICULTURAL DISTRICTS.

(A) Intent. It is the intent of the Town Council to clarify those ordinances of the Town of Fortville which are or appear to be inconsistent with respect to the permitted use of agricultural land for the keeping and raising of livestock. It is the further intent of the Town Council that no ordinance of the Town of Fortville prohibit the keeping and raising of livestock, including without limitation, horses and cattle, on any land within the town limits of the Town of Fortville zoned or otherwise legally used for agricultural purposes. (`87 Code, § 6-15)

(B) Horse regulations. Persons shall be permitted to keep, raise, ride or otherwise use horses upon any land within the town limits now or hereafter zoned Agricultural District (A) under the permanent zoning ordinance and Master Plan of this town. (`87 Code, § 6-16)

(C) Livestock regulations. No ordinance of the Town of Fortville shall prohibit or be construed to prohibit the keeping and raising of livestock upon any land within the town limits now or hereafter zoned Agricultural District (A) under the permanent zoning ordinance and Master Plan of this town. (`87 Code, § 6-17)

(Ord. 1979-2D, passed 2-27-79)

ADMINISTRATION AND ENFORCEMENT

§ 93.35 IMPOUNDMENT.

(A) Establishment of pound or shelter. The City of Greenfield has arranged for use of an animal pound or shelter, as provided in Indiana law.

(B) Cause for impoundment. It shall be the duty of the Animal Control Officer to apprehend and impound in such animal shelter any dog, cat or any other animal found doing any of the following acts or being kept or maintained in any of the following conditions, unless provided herein:

- (1) Running at large, not conforming to § 93.03(A);
- (2) Not confined, as provided in § 93.03(B), (C) and (D);
- (3) Kept in violation of § 93.03(A) and § 93.04(B);

- (4) Abandoned, as provided in § 93.04(D);
- (5) Entering private property causing injury to person or property in violation of § 93.03(F) and (G);
- (6) Not registered, licensed or tagged as provided in this chapter and Indiana law;
- (7) Upon all identified complaints made to the Animal Control Officer or a violation of this chapter;
- (8) Upon order of the court following a conviction of any person for violating any provision of this chapter.

(C) Official warning in lieu of impoundment. The provisions of the above, notwithstanding, in lieu of impounding any animal under division (B) above, the Animal Control Officer may issue an official warning to the owner or person having custody of the dog, cat or other animal.

(D) Notification of impoundment. Not later than 24 hours after the impounding of any dog, cat or other animal, except if such impoundment is by reason of division (B)(8), the Animal Control Officer or his or her deputy shall notify the owner or person having custody of such animal, if known, by First Class United States Mail or by telephone of such impoundment and the reason thereof. In the event that the owner is unknown, no notification will be deemed necessary.

(E) Notification and redemption of impounded animal. Whether any animal that has been impounded on three or more occasions may not be redeemed or reclaimed is within the discretion of the Animal Control Officer.

(F) Fees for redemption of impounded animal. An owner or person having custody of an impounded dog, cat or other animal who has been notified that such dog, cat or other animal may be reclaimed or redeemed, may reclaim or redeem the same upon payment of the following fees and upon fulfillment of the following obligations:

(1) If the dog, cat or other animal has been picked up or captured by the Animal Control Officer, the owner or person having custody of such animal shall pay a redemption fee as provided by the schedule per the Greenfield Board of Works, except for the case in which the impounded animal is female and is in heat that has not been restrained in accordance with § 93.03(B), in which case the owner or person having custody of the animal shall pay a redemption fee as provided;

(2) In addition to the payment required in division (F)(1) above, any person, firm, agency or corporation operating such animal shelter under contract or agreement with the City of Greenfield may charge an impoundment fee for each day or part thereof that the animal shall be impounded and an impoundment fee to help defray costs of handling and keeping of records;

(3) Notwithstanding any other provisions of this chapter, no dog or cat impounded shall be released if such dog or cat has not been registered, licensed and tagged as provided in this chapter and by Indiana law until such requirements have been satisfied. In addition, if the impounded dog or cat is not required to be licensed, before the dog or cat shall be released, the owner or person having custody of such animal shall have the dog or cat inoculated against rabies and certify the same to the Animal Control Officer.

(G) Failure to reclaim or redeem impounded animal. It shall be unlawful for an owner or person having custody of an impounded dog, cat or other animal who has been

notified that such dog, cat or other animal may be reclaimed or redeemed to fail to reclaim or redeem the same on or before the last day of impoundment before the disposition of such dog, cat or other animal under division (H) of this section.

(H) Impounded animal not registered, licensed, tagged or redeemed. All dogs, cats or other animals impounded under this chapter and not registered, licensed, tagged and redeemed shall be disposed of in a humane manner after the expiration of the following time periods:

(1) Three business days after notice is given to the owner or person having custody of such animal as required under division (D) of this section;

(2) Five business days after impoundment when the owner or person having custody of such animal is unknown;

(3) After the animal has been impounded for the third time within a 12-month period; or

(4) At the time fixed by the court under division (B) of this section; provided, however, that the dog, cat or other animal which appears to be suffering from mange or other infectious or contagious disease, except rabies, may be disposed of immediately upon impoundment. Any animal destroyed which is believed to be suffering from mange or other infectious disease shall be forthwith reported to the Animal Control Officer.

(I) Extermination of vicious animals. Whenever the Animal Control Department shall find any dog, cat or other animal running in packs, vicious or in such condition as to be too dangerous to capture, then the Animal Control Officer is authorized to dispose of the animal where it may be found.

(J) Prohibition of experimentation on impounded animals. No impounded animal shall be sold or given to any person, procurer or agent for the purpose of experimentation.

(Ord. 1997-7A, passed 7-15-97)

§ 93.36 ADOPTION RULES AND PROCEDURES.

(A) Adoption. Adoption restrictions are as follows:

(1) Animals to be adopted must meet state requirements for vaccination and taxation;

(2) Animals that have not been neutered will not be adopted until arrangements for neutering have been made;

(3) Persons adopting give assurance that the animal will be kept on their property and not be allowed to run at large;

(4) No animal will be adopted to a person convicted of cruelty to an animal or known to be a repeat offender of allowing an animal to run at large;

(5) No adoption by a minor will be allowed;

(6) Any person living in an apartment, mobile home or rental property must get consent from the owner before adoption;

(7) If at any time the new owner becomes unable to care for the animal, a new responsible owner must be found or the animal returned to the shelter;

(8) Injured or sick animals are not available for adoption;

(9) The person adopting acknowledges Animal Control personnel are not veterinarians and therefore cannot guarantee the health of adopted animals;

(10) All fees are nonrefundable;

(11) Any animal that is known to have bitten an individual will not be available for adoption; and

(12) Animal Control, the Town of Fortville and the City of Greenfield are not responsible for the actions of animals adopted out of the shelter.

(13) If the application is accepted, placement can take place as soon as fees and other required certification is completed. Animal Control reserves the right of refusal on any adoption. The applicant has the right of appeal to the Director of Animal Control within 24 hours of refusal.

(B) Fees.

(1) Fees for adoption are set by the City of Greenfield.

(2) Fees set forth in subsection (1) shall be paid to any participating veterinarian of the applicant's choice. The animal will be released when proof of receipt from a participating veterinarian has been shown.

(Ord. 1997-7A, passed 7-15-97)

§ 93.37 ENFORCEMENT.

(A) Enforcement. The Animal Control Officer and authorized members of this Department will have the full and unrestricted authority to enforce this chapter.

(B) Interference with official. It shall be a violation of this chapter to interfere with the Animal Control Officer or any Deputy Animal Control Officer in the performance of his or her duties thereunder which shall be punishable in accordance with division (G) of this section.

(C) Record of impound animals. The Animal Control Officer shall keep a record of all dogs, cats or other animals impounded in the Animal Shelter, which record shall show the date of impoundment, the reason thereof, name of the person bringing the animal to the pound and the kind, sex, color, breed and any identifying collars, tags, tattoos or marks of the animal impounded.

(D) Official warning and notice of code violation. Upon information sufficient to establish a violation of the provisions of this chapter, the Animal Control Officer or authorized deputy may issue to the person committing such violation, or to the owner or person having custody or control of any animal involved in such violation, either:

(1) An official warning stating the name of the person to whom the warning is being issued, the nature of the violation, the date of the violation and any other pertinent information concerning the violation. Such official warning shall also state that it is only a warning and is neither a notice of code violation nor a notice to appear to answer to any such violation; or

(2) A notice of code violation stating the name of the person to whom the notice is being issued, the nature of the violation, the fine imposed for such violation in accordance with division (E) of this section, the specific section of this chapter which has been violated and any other information which is pertinent to the violation and necessary for a thorough understanding of the circumstances surrounding such violation. Such violation notice shall instruct the person to whom the violation is being issued that he or she shall appear at the Hancock Superior Court II to answer to such violation.

(E) Fines.

(1) Any person who violates the provisions of this chapter within five business days of the date of the notice of the chapter violation, such violator shall pay a fine as follows:

Violation		Fine, as Provided by Ordinance
Section/Subsection		
93.03(A)	\$10	
93.03(B)	\$10	
93.03(C)	\$10	
93.03(D)	\$10	
93.03(E)	\$25	
93.03(F)	\$10	
93.03(G)	\$10	
93.04(A)	\$25	
93.04(B)	\$25	
93.04(C)	\$25	
93.04(E)	\$25	
93.05	\$25	
93.35(G)	\$10	

(2) The fines will be collected by the Town Clerk-Treasurer and transferred to the General Fund.

(F) Failure to pay fines. If a violator fails to pay fines or appear at the Clerk-Treasurer's office within five business days of the date of notice of code violation, such violation may be filed with Hancock Superior Court II, and such violator may be summoned to appear before the court.

(G) Penalties. Any person found to be in violation of any provision of this chapter, other than the licensing provision of § 93.02 or the sections listed in division (E) of this section shall be fined an amount as determined by § 10.99. Each day a violation occurs shall be deemed a separate violation, unless otherwise provided by Indiana law.

(H) Restitution. In addition to the fines set forth herein, any person who violates the provisions of § 93.03(G) shall make full restitution for any damages or injury to persons or property as a result of such violation, including, but not limited to, medical expenses, the value of any real or personal property which has been destroyed or the cost of returning any damage to real or personal property.

(Ord. 1997-7A, passed 7-15-97)

CHAPTER 94: STREETS AND SIDEWALKS

Section

General Provisions

94.01 Street renumbering

94.02 Utility and Street Construction Standards

Sidewalk Regulations

94.15 Construction standards

94.16 Highway Superintendent's rule

94.17 Signs and obstructions

Digging Regulations Along Streets and Alleys

94.30 Permit required

94.31 Application and bond requirements

Standards for Streets, Curbs and Gutters in New Subdivisions

- 94.45 Standards for streets in new subdivisions
- 94.46 Standard specifications for streets
- 94.47 Preparation of subgrade for street pavements
- 94.48 Rigid (plain concrete) pavement construction
- 94.49 Flexible pavement construction
- 94.50 Additional regulations

GENERAL PROVISIONS

§ 94.01 STREET RENUMBERING.

All of the streets in the Town of Fortville, Indiana, are renumbered and the renumbering of the streets shall be as contained on a plot now located in the office of the Clerk-Treasurer of the town, and the plot and instructions thereon are incorporated and made a part of this chapter.

(`87 Code, § 7-22) (Ord. 1953-, passed 7-14-53)

§ 94.02 UTILITY AND STREET CONSTRUCTION STANDARDS.

(A) There is hereby adopted the utility and street construction standards in the form attached to Ordinance 2001-12B, which may be from time to time amended by Town Council meeting in regular or special session. Any amendment to the construction standards shall be in writing and adopted by vote of a majority of the Town Council pursuant to written ordinance, which shall thereafter be incorporated into the written utility and construction standards following its adoption.

(B) The utility and street construction standards adopted pursuant to this section shall be the exclusive statement of construction standards of the town applying to the construction and changes made to and of streets and utilities.

(C) The utility and street construction standards apply to all persons or firms involved in the construction and/or repair and/or modification of streets and utilities under the jurisdiction of the town unless otherwise provided by applicable law.

(Ord. 2001-12B, passed 12-20-01)

SIDEWALK REGULATIONS

§ 94.15 CONSTRUCTION STANDARDS.

Hereafter all sidewalks being newly constructed or replaced shall meet the following standards:

(A) They shall be made of concrete that is not less than 4,000 pound test strength;

(B) They shall not be less than four inches thick and not less than four feet wide;

(C) The top of the sidewalk shall not be more than four inches higher than the crown of the street;

(D) They shall be sloped, but not more than one-half inch, from property to street;

(E) No step-downs are permitted.

(`87 Code, § 7-10) (Ord. 1977-11A, passed 11-8-77)

§ 94.16 HIGHWAY SUPERINTENDENT'S RULE.

In special circumstances requiring special construction needs, the Highway Superintendent may grant a variance for one or more of the requirements set out in § 94.15.

(`87 Code, § 7-11) (Ord. 1977-11A, passed 11-8-77)

§ 94.17 SIGNS AND OBSTRUCTIONS.

It shall hereafter be unlawful for any person, firm or corporation to erect and operate signs and obstructions of any description on or along the sidewalks and curbs in the Town of Fortville, Indiana, without first obtaining the consent of the Town Council in regular session; exceptions are made of state, county and municipal signs pertaining to traffic and parking markers.

(`87 Code, § 7-12) (Ord. 1-1936, passed 7-1-36) Penalty, see § 10.99

DIGGING REGULATIONS ALONG STREETS AND ALLEYS

§ 94.30 PERMIT REQUIRED.

It shall be unlawful for any person, firm or corporation to dig into or along any of the streets or alleys of the Town of Fortville, Indiana, for the purpose of laying any gas pipe, cable, conduit or other material or for the purpose of removing any gas pipe, cable, conduit or other material without first procuring from the Clerk-Treasurer of the town a permit in writing signed by the Clerk-Treasurer to so dig in any street or alley and by paying to the Clerk-Treasurer of the town the sum of \$50 for such permit, which permit so issued by the Clerk-Treasurer shall state the place, time and purpose for which such digging is to be done.

(`87 Code, § 7-17) (Ord. 10-1930, passed 10-17-30) Penalty, see § 10.99

§ 94.31 APPLICATION AND BOND REQUIREMENTS.

Before the Clerk-Treasurer of the town shall issue any such permit the person, firm or corporation desiring to dig in and along any of the streets or alleys of the Town of Fortville, Indiana, and for the purpose aforesaid shall apply to the Clerk-Treasurer in writing for such permit stating specifically in such application the nature of the work to be done, the location where the digging is to be done and approximately the time that will be required to do the work and shall file with the Clerk-Treasurer a bond with sufficient security thereon for the proper repairing or adjust any damages done to the street or alley occasioned by such digging, which bond shall be for the purpose of covering the cost of repairing such street or alley in case the person, firm or corporation securing such permit fails to do so.

(`87 Code, § 7-18) (Ord. 10-1930, passed 10-17-30)

STANDARDS FOR STREETS, CURBS AND GUTTERS IN NEW SUBDIVISIONS

§ 94.45 STANDARDS FOR STREETS IN NEW SUBDIVISIONS.

(A) Where local streets are designed to serve two and one-half dwelling units or less per acre of ground, the minimum width pavement, including curbs and gutters, shall be 27 feet measured back to back of curbs. Parking is permitted on one side only; add ten feet to permit parking on both sides.

(B) Where local streets are designed to serve for more than two and one-half dwelling units per acre of ground, the minimum width of pavement, including curbs and gutters, shall be 30 feet measured back to back of curbs. Parking is permitted on one side only; add ten feet to permit parking on both sides.

(C) Rolled curbs and gutters shall be required for all streets unless a waiver is granted by the Town of Fortville.

(D) Sidewalks are required and will be constructed of plain concrete, four inches thick, with four-foot minimum width and located as shown on typical local street section, as depicted in Exhibit A to the ordinance set forth in this section and made a part hereof, copies of which are kept on file in the office of the Clerk-Treasurer.

(E) The width of street requirement as set out in this section may be reduced upon the recommendation of the Street Superintendent and approval by the Town Council.

(`87 Code, § 7-25) (Ord. 1978-8A, passed 8-8-78; Ord. 1979-4A, passed 4-10-79)

§ 94.46 STANDARD SPECIFICATIONS FOR STREETS.

Minimum requirements for street construction shall be in accordance with Standard Specifications of the State Highway Commission of Indiana, 1974 Edition, or subsequent superseding editions, thereafter referred to as the "Standard Specifications," unless otherwise required by the article. Copies of said "Standard Specifications" are on file in the office of the Utility Superintendent.

(`87 Code, § 7-26) (Ord. 1979-4A, passed 4-10-79)

§ 94.47 PREPARATION OF SUBGRADE FOR STREET PAVEMENTS.

(A) After all earth work is substantially complete and all drains installed, the subgrade shall be brought to the lies and grades shown on the plans or as may be otherwise approved in accordance with these standards. Such portions shall be known as subgrades.

(B) Unless otherwise provided, the upper six inches of all subgrade shall be uniformly compacted to at least 95% standard density as determined by the provisions of AASHTO, T99, (American Association State Highway Offices), "Compaction and Density of Soils." A six-inch subgrade fill next to concrete shall be two-inch stone or its equal, then rolled with not less than a ten-ton roller. During subgrade preparation and after its completion, adequate drainage shall be provided at all times to prevent water from standing on the subgrade. Subgrades shall be so constructed that it will have as nearly as possible uniform density throughout. After compaction and final grading, the subgrade shall be finished with a three-wheel roller weighing not less than ten tons. At areas not accessible to the roller, the required compaction shall be obtained with mechanical tamps and vibrators. All soft yielding or otherwise unsuitable material which will not compact properly shall be removed. All rock encountered shall either be removed or broken off to conform with the required cross section. Any holes or depressions resulting from the removal of such unsuitable material shall be filled with satisfactory material and compacted to conform with the surrounding subgrade surface. No placement of pavement shall be permitted on uninspected or unapproved subgrade and at no time when the subgrade is frozen or muddy. No hauling shall be done nor equipment moved over the subgrade when its condition is such that undue distortion results. If these conditions are present, the subgrade shall be protected with adequate plant runways, mats or other satisfactory means if hauling is done thereon. The subgrade shall be prepared sufficiently in advance to permit proper inspection so that the final elevation may be checked with a scratch template and compaction checked. All utility excavations under the pavement shall be backfilled with Grade "B" borrow, and construction shall conform to Section 211 of the "Standard Specifications" or compacted thoroughly by other means.

(`87 Code, § 7-27) (Ord. 1979-4A, passed 4-10-79; Ord. 1978-8A, passed 8-8-78)

§ 94.48 RIGID (PLAIN CONCRETE) PAVEMENT CONSTRUCTION.

(A) At the time of placement of the concrete, the subgrade shall be properly dampened just prior to the placement where it has become dry, where the surface has been removed by final grading or for any other reason it has not been removed by final grading or for any other reason it has not been properly dampened. Plain cement

pavement shall be in accordance with Section 501 of the "Standard Specifications" or any subsequent amendments thereto.

(B) Materials shall comply with requirements of the "Standard Specifications." Minimum cement content shall be 6.0 bags per cubic yards of concrete mixture. No cement reduction below the minimum shall be allowed for admixtures to increase workability or control setting time. Concrete pavement is to be six inches in thickness. Concrete is to be mixed with air entrained cement of at least 6% air. Center of street bulkheads is to be keywayed by 2-inch x 4-inch keyway in center of form. Construction joints are to be doweled by one inch bars 14" long every two feet. (At all bulkheads where pour ends and starts again. Concrete shall be finished by machine or vibratory screed except on widened portions, intersections or other places where hand-finishing will be permitted.)

(C) Weakened plane or dummy, transverse, contraction joints shall be placed not to exceed 20-foot spacing. Closer spacing to average 15 feet will be encouraged. Transverse contraction joints may either be formed or sawed dummy groove, ribbon or pro-molded strip type and shall be one-fourth the pavement depth.

(D) When transverse joints are to be formed by sawing, care must be taken to saw the grooves soon after placing the concrete to prevent the formation of cracks due to contraction of the slab. All transverse joints shall be sawed within eight hours after the placing of the concrete unless authorization is given for sawing at a later time. One of the above-named joints shall be placed at every catch basin and manhole in line of pavement. The location of manholes and the like in the pavement shall determine the exact location of the joints. All joints shall extend throughout curbs to full width of pavement.

(E) Transverse expansion joints shall be placed at Tee intersections and wherever else shown on the plans.

(F) Whenever the width between forms of the pavement under construction is greater than 13½ feet, longitudinal joints shall be constructed so as to divide the pavement into strips not to exceed 13½ feet each. This may be accomplished by sawing or constructing a slot or groove as herein described for dummy construction joints or by a deformed key plate installed prior to the depositing of the concrete.

(G) Curing with white membrane curing compound AASHTO Number type 2 - M - 14B will be properly applied to give complete coverage.

('87 Code, § 7-28) (Ord. 1978-8A, passed 8-8-78; Ord. 1979-4A, passed 4-10-79)
§ 94.49 FLEXIBLE PAVEMENT CONSTRUCTION.

(A) Pavement shall be constructed in accordance with the requirements of Section 401 of the "Standard Specifications." Pavement shall be full-depth hot asphaltic concrete unless otherwise approved by the Town Council on the recommendation of the Utility Superintendent.

(B) Where the Town Council allows collector streets or local streets to be constructed with compacted aggregate base, the base shall be placed on the prepared subgrade, compacted, primed and covered with binder before being contaminated by construction traffic.

(C) Materials and construction procedures shall comply with the requirements of Sections 303 and 403 of the "Standard Specifications."

('87 Code, § 7-29) (Ord. 1978-8A, passed 8-8-78)

§ 94.50 ADDITIONAL REGULATIONS.

(A) Material shall comply with the requirements for Class A concrete of the “Standard Specifications.”

(B) Slipforming will be permissible.
(^87 Code, § 7-30) (Ord. 1978-8A, passed 8-8-78)

CHAPTER 95: TREES

Section

- 95.01 Title
- 95.02 Purpose and intent
- 95.03 Definitions
- 95.04 Jurisdiction
- 95.05 Tree Program Supervisor
- 95.06 Appeals
- 95.07 Enforcement
- 95.08 Performance evaluation
- 95.09 Local government disclaims liability
- 95.10 Responsibility of property owners
- 95.11 Topping prohibited
- 95.12 Action on failure to abate
- 95.13 Procedural and labor charges
- 95.14 Resolution of conflicts between trees and structures
- 95.15 Public nuisances
- 95.16 Diseased or hazardous trees and plants
- 95.17 Abatement of hazardous and public nuisances
- 95.18 Permit required for planting within town right-of-way
- 95.19 Harming public trees prohibited
- 95.20 Licensing of private tree care firms
- 95.21 Conservation of forest and woodland resources during development
- 95.22 Prohibited species list
- 95.23 Storm damage limb pickup
- 95.99 Penalty

§ 95.01 TITLE.

This chapter shall be known as the “Town of Fortville Tree and Flora Ordinance.”
(Ord. 2002-7A, passed 9-24-02)

§ 95.02 PURPOSE AND INTENT.

(A) This chapter establishes policies, regulations, and standards necessary to ensure that the town will continue to realize the benefits provided by its trees and plants.

(B) The provisions of this chapter are enacted to regulate the planting, maintenance, protection and removal of trees and shrubs on public streets, parks and other town-owned property. It shall also provide for the issuing of permits for the planting, maintenance, protection and removal of trees and shrubs in town-owned areas.
(Ord. 2002-7A, passed 9-24-02)

§ 95.03 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONSULTING ARBORIST. An individual who is trained and certified by the International Society of Arboriculture, in the art and science of planting, caring for and maintaining individual trees and forests.

FLORA. Any and all trees, shrubbery and other plants, which grow to a height of greater than 12 inches, but excludes weeds.

OWNER(S). Any one or more of the following:

(1) In fee simple of a parcel of real estate, including the life tenant(s).
(2) As reflected by the most current records in the town assessor's office.

(3) The purchaser(s) of such real estate under any contract for the conditional sale thereof.

PLANTS. All trees, shrubbery and other plants that grow to a height of greater than 12 inches, but excludes weeds.

SHRUBS. Any woody, perennial plant with multiple stems that grows to a height of less than ten feet. This may include ornamental grasses.

TOPPING. The indiscriminate cutting back of tree branches to stubs or lateral branches that are not large enough to assume the terminal role. Other names for topping include "heading," "tipping," "hat-racking," and "rounding over."

TREE. Any woody, perennial plant and includes those having a single stem or multiple stems that grows to a height of over ten feet.

(Ord. 2002-7A, passed 9-24-02)

§ 95.04 JURISDICTION.

The town shall have control of all trees, shrubs, and other plantings now or hereafter in any street, park, public right-of-way or easement, or other public place within the town limits, and shall have the power to plant, maintain, remove, and replace such trees, shrubs and other plantings.

(Ord. 2002-7A, passed 9-24-02)

§ 95.05 TREE PROGRAM SUPERVISOR.

The Street and Utilities Superintendent shall be established as the Tree Program Supervisor. The Tree Program Supervisor shall assist in the management of the natural resources within the town by enforcement of the sections within this chapter and evaluation of the overall tree management program.

(Ord. 2002-7A, passed 9-24-02)

§ 95.06 APPEALS.

Any action of the Tree Program Supervisor and/or Park Superintendent may be appealed to and heard by the Town Council. To be effective, an appeal must be filed within ten days after the decision of the Tree Program Supervisor and/or Park Superintendent. The appeal shall be in writing and shall be filed with the President of the Town Council for placement on the Council's agenda. The appeal shall clearly specify the reasons for which a hearing is requested. To be effective, an appeal to the Town Council must be in writing, state the reasons for the appeal, and must be filed with the Town Clerk within ten days after notice of the decision of Tree Program Supervisor and/or Park Superintendent is mailed to the applicant. The decision of the Town Council shall be final.

(Ord. 2002-7A, passed 9-24-02)

§ 95.07 ENFORCEMENT.

The Tree Program Supervisor, under the auspices of the Town Council and the Town Manager is hereby charged with the responsibility for the enforcement of this chapter and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the Town Legal Counsel is hereby authorized to institute appropriate proceedings to that end.

(Ord. 2002-7A, passed 9-24-02)

§ 95.08 PERFORMANCE EVALUATION.

The Tree Program Supervisor shall collect and maintain all records and data necessary to objectively evaluate whether progress is being made toward the stated goals of this chapter. An annual summary and, analysis of the evaluation, and recommendations for action shall be prepared at the direction of the Tree Program Supervisor and the consulting arborist and presented to the Town Council. The Town Council shall consider the report and recommendations and take all actions deemed necessary to accomplish the goals of this chapter. These actions may include, but are not limited to, revision or amendment of this chapter or the adoption of other resolutions or ordinances.

(Ord. 2002-7A, passed 9-24-02)

§ 95.09 LOCAL GOVERNMENT DISCLAIMS LIABILITY.

Nothing contained in this chapter shall be deemed to impose any liability upon the town, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub or plant upon any street tree area on his or her property or under his or her control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, pleasure ground, boulevard, alley or public place within the town.

(Ord. 2002-7A, passed 9-24-02)

§ 95.10 RESPONSIBILITY OF PROPERTY OWNERS.

It shall be the duty and responsibility of every person owning or occupying any real property within the town to keep all trees and plants on that property trimmed in such a manner that there is a clearance of at least 14 feet above any street or alley, and a clearance of at least seven feet over any sidewalk. It shall also be the duty and responsibility of every person owning or occupying any real property within the town to keep all trees on that property trimmed in such a manner that they do not obstruct the view of any traffic sign or device for vehicle traffic in the direction controlled by that traffic sign or device.

(Ord. 2002-7A, passed 9-24-02)

§ 95.11 TOPPING PROHIBITED.

The practice of topping and/or other especially destructive maintenance practices such as severely trimming trees in public trees is strictly forbidden. "Severely trimmed" shall mean the cutting of the branches and/or trunk of a tree in a manner which will substantially reduce the overall size of the tree area so as to destroy the existing symmetrical appearance or natural shape of the tree in a manner which results in the removal of main lateral branches leaving the trunk of the tree in a stub appearances. The standards identified in the ANSI A300 standards describe trimming methods, which will give maximum benefits to both trees and people. These specifications and methods are available from the Tree Program Supervisor.

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99

§ 95.12 ACTION ON FAILURE TO ABATE.

If upon re-inspection of the offending real estate, and, where notice has been given by publication, after the lapse of the ten-day notice period, it is determined by the Tree Program Supervisor that abatement has not occurred, and shall be allowed to enter upon such private property or right-of-way and proceed with corrective action.

(Ord. 2002-7A, passed 9-24-02)

§ 95.13 PROCEDURAL AND LABOR CHARGES.

Services rendered in the enforcement of this chapter to any owners(s) shall pay to the town the following fees and charges:

- (A) Fifty dollars for each inspection to determine compliance.
- (B) Twenty-five dollars for property ownership determination.
- (C) All costs for notice publication.
- (D) Twenty dollars for services performed in perfecting a lien.
- (E) Ten dollars for certified mail preparation and sending.
- (F) Forty dollars per man-hour plus equipment charges, as determined by the

Tree Program Supervisor, for services rendered in violation abatement.

(Ord. 2002-7A, passed 9-24-02)

§ 95.14 RESOLUTION OF CONFLICTS BETWEEN TREES AND STRUCTURES.

Where sidewalk or curb damage due to tree roots occurs, every effort shall be made to correct the problem without removing or damaging the tree. The Tree Program Supervisor, in conjunction with the consulting arborist shall be responsible for developing or approving corrective measures. Corrective action may include alteration of sidewalk and/or curb construction.

(Ord. 2002-7A, passed 9-24-02)

§ 95.15 PUBLIC NUISANCES.

Any tree, shrub or groundcover, or plant growing or standing on private property in such a manner that any portion thereof interferes with any public street, sidewalk, alley or restricts the flow of traffic or visibility of such street, sidewalk, alley or intersection thereof to any person or persons lawfully using such streets, sidewalks, alleys or intersections shall constitute a public nuisance.

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99

§ 95.16 DISEASED OR HAZARDOUS TREES AND PLANTS.

The town shall have the exclusive authority to destroy any plants in or on public streets, alleys, ways, places and parks if infected by disease or injurious insects, or if in the judgment of the Tree Program Supervisor, represents a dangerous condition or hazard to the public. Such destruction may also be effected when necessary for the protection of other flora or in any other case when the public safety, health or welfare is or may be adversely affected.

(Ord. 2002-7A, passed 9-24-02)

§ 95.17 ABATEMENT OF HAZARDOUS AND PUBLIC NUISANCES.

The town may remove or trim such tree, may permit any public utility to do so, or may require the property owner to remove or trim such tree on private property or on a public parking area abutting upon the property of the owner. The failure of the property owner, or his or her duly authorized agent, to remove such tree or perform specified maintenance on the tree, after 15 days notice by the Tree Program Supervisor shall be

deemed a violation of the provisions of this chapter, and the Tree Program Supervisor may then remove or trim such tree and assess the cost thereof against the property.

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99

§ 95.18 PERMIT REQUIRED FOR PLANTING WITHIN TOWN RIGHT-OF-WAY.

No person shall plant any street tree except according to policies, regulations and specifications established pursuant to this section:

(A) All trees or plant material planted on or in the public street, sidewalk area, alley or parks shall be required by this code to have the approval of the Tree Program Supervisor or the consulting arborist and be granted a special permit for such planting.

(B) Plants shall be located and planted under the supervision of the Tree Program Supervisor or designee, who shall supervise such planting and locating. In the performance of such work, consideration shall be given to the following factors; provided, that setbacks permit and considerations of safety do not interfere. No tree shall be planted in any public street, alley, place or park in the town less than 30 feet away from any other tree planted along the same area or at a distance of less than 3 feet from any established sidewalk or curb bordering any public right-of-way, except by written permission by the Tree Program Supervisor.

(C) The Tree Program Supervisor shall have the power to set forth any further specifications required and may alter methods of planting, reject any tree or tree species, or suspend the right of a permit holder to plant, for any reason and without advance notice.

(D) Trees that must be removed shall be replaced by new planting, except in unusual circumstances or where construction or space is prohibitive.

(E) Plant material selected may vary, depending on location; however, they must be of high quality and of suitable species, and not of the prohibited species prescribed. All plant materials must conform to the specifications set forth by the American Association of Nurserymen Plant Standards.

(F) Planting procedures shall comply with ANSI A300 standards for the installation of nursery stock. Suitable maintenance plans and procedures must be submitted prior to installation and shall be subject to the approval of the Tree Program Supervisor and the consulting arborist.

(G) Permit holder shall guarantee survival of each tree for a minimum of one year after planting date. Any tree not surviving the minimum shall be replaced either by the permit holder or the department at the permit holder's expense. After a period of one year, all plant materials shall become property of the town and becomes the responsibility of the town.

(H) The coordination of tree planting on public ways with landscaping on private property so as to achieve the above purposes is deemed desirable.

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99

§ 95.19 HARMING PUBLIC TREES PROHIBITED.

It shall be a violation of the provisions of this chapter for any person to abuse, destroy or mutilate any tree, plant or shrub in the right-of-way or any other public place, or to attach or place any rope, wire (other than one used to support a young or broken tree), chain, sign, poster, handbill or other things to or on any tree growing in a public place, or to cause or permit any wire charged with electricity to be placed or attached to any such tree, or allow any gaseous, liquid or solid substance which is harmful to such

trees to come in contact with their roots, trunks, or leaves. No person shall perform any arboricultural work on any plant material on town property unless first granted a special permit indicating the approved activity on each designated plant. All work on town trees including pruning, protecting, bracing, relocating, cultivating, spraying or removing will be allowed only when permitted by the Tree Program Supervisor.

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99

§ 95.20 LICENSING OF PRIVATE TREE CARE FIRMS.

It is unlawful for any person or business to perform tree pruning and/or repair work on public trees for hire within the town without a valid tree care license issued by the Tree Program Supervisor.

(A) Each tree pruned or otherwise modified in violation of this provision shall constitute a separate offense. The first such offense is punishable by a fine not to exceed \$500; each subsequent offense is punishable by a fine not to exceed \$1,000. A single person or business establishes no maximum fine for multiple violations.

(B) The Tree Program Supervisor is authorized to issue tree care licenses to persons or businesses that meet the following minimum requirements: The person or at least one person on the staff of a business must be designated as a qualified arborist by the town. To be designated as a qualified arborist, a tree service employee shall demonstrate knowledge of proper arboricultural techniques by providing documentation of professional certification, education, and/or experience acceptable to the town arborist.

(C) The licensee must sign an affidavit to certify that all tree work will be performed under the direct supervision of the qualified arborist and will comply with all town standards and ordinances.

(D) The Tree Program Supervisor is authorized to suspend or revoke the tree care license of any person or business that performs work which does not comply with tree care standards as specified in ANSI A300, in this chapter and in the tree management plan. License suspensions and revocations may be appealed to the Town Council within ten days of notification. The decision of the Town Council shall be final and is not subject to appeal.

(E) The Tree Program Supervisor, under the guidance of the consulting arborist, may reissue any tree care business license previously revoked subject to the above minimum requirements and any additional requirements as may be prescribed by the consulting arborist and approved by the Town Council.

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99

§ 95.21 CONSERVATION OF FOREST AND WOODLAND RESOURCES DURING DEVELOPMENT.

No person, business or corporation shall destroy or significantly alter any forest or woodland through tree damage or removal, clearing, grading, tilling, burning, application of chemicals, or any other means unless they apply for special permitting. No person, business or corporation shall be granted a permit for subdivision, grading, building or the construction of any improvement on wooded or forested lands unless they possess a valid permit. Any alteration of wooded or forested lands shall conform to the conditions and specifications of the Tree Management Program.

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99

§ 95.22 PROHIBITED SPECIES LIST.

The following tree species shall not be used by anyone for planting along any public street, alley, right-of-way or park. The town shall not place, nor permit to be placed, any tree or shrub, which will cause or tend to cause a hazardous or unsafe condition either for motorists or pedestrians. Other species of trees and plants may be added at any time and subject to revision.

Acer negundo Box Elder
Acer sacharrinum Silver Maple
Ailanthus altissima Tree of Heaven
Betula papyrifera Paper Birch
Betula pendula European White Birch
Catalpa bignoides Southern Catalpa
Morus species Mulberry
Populus nigra Lombardy Poplar
Populus deltoides Cottonwood
Salix species Willows, all
Ulmus species Elms, all
Robinia pseudoacacia Black Locust
Gingko species Gingko, except seedless cultivars.
Juglans nigra Black Walnut
Pyrus callefyana "Bradford" Bradford Pear

(Ord. 2002-7A, passed 9-24-02) Penalty, see § 95.99
§ 95.23 STORM DAMAGE LIMB PICKUP.

(A) The Town Manager and/or the Town Council President shall declare a storm damage emergency day throughout the year and will detail the Street Department staff to remove damaged limbs caused by storms.

(B) The Town Council selects the Monday following any storm as the beginning day for storm damage pickup.

(Res. 2001-12B, passed 12-20-01)
§ 95.99 PENALTY.

(A) Tree removal and damage violations. Any person who neglects or refuses to comply with, or assists in the violation of, any of the provisions of this chapter, or any order, permit, or notice issued pursuant thereto, shall be fined not more than \$1,000 for each such violation and shall pay in addition the cost of replacement as provided in this section. Each day any such violation continues shall constitute a separate offense, and each tree removed or damaged shall also constitute a separate offense. Any person who causes a tree to be removed or damaged in violation of this chapter, or any order, permit, or notice issued pursuant thereto, shall repair or replace any such tree at the violator's sole cost and expense pursuant to the tree replacement requirements set forth in sections of this chapter. The cost of replacement shall be \$100 for each DBH inch of the removed or damaged tree. If the precise DBH cannot be determined, the cost of replacement shall be determined by the Tree Program Supervisor based on the consulting arborist's estimate of the DBH of the removed or damaged tree. The person responsible for the violation shall pay the replacement cost of the tree to the town. The location, species, and planting

specification for replacement trees shall be approved prior to replanting by the Tree Program Supervisor pursuant to the requirements of sections in this chapter.

(B) Planting, arboricultural work or encroachment violations. If the Tree Program Supervisor determines that a violation exists regarding planting, maintenance or encroachment of trees or flora upon property within the right-of-way the following shall occur:

(1) A preliminary notice shall be given to the owner or occupant of such property, either verbally or by posting the notice on the property. The notice shall state the nature of the alleged violation, corrective action necessary and a date, not less than two weeks, when the property will be re-inspected to determine if compliance has been effected. After re-inspection, if it is determined that the violation has been corrected, the owner or occupant shall not be liable for any charges by reason of the preliminary notice procedure.

(2) If any violation is not corrected as a result of the preliminary notice, or no preliminary notice is given, or the condition exists on a vacant lot or unoccupied, unimproved real estate, the Tree Program Supervisor shall give to the owner of such real estate written notice of the existing condition. Such notice shall be given by certified mail, stating the nature of the violation, describe the real estate upon which the condition exists and demand abatement of the condition and set a date, not sooner than two weeks after the date of such notice. The property shall then be re-inspected to determine if abatement has been effected. If the certified mail is not returned within 30 calendar days or if the address of the owner is unknown and cannot be ascertained after due diligence, it shall be sufficient to give notice by publication in the town newspaper circulation. The owner(s) notified by publication shall have ten days from the date of the published notice in which to abate the offending condition.

(Ord. 2002-7A, passed 9-24-02)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. LICENSING AND REGULATIONS

CHAPTER 110: LICENSING AND REGULATIONS

Section

General Provisions

110.01 Authority to license

110.02 Duration of license, display required

110.03 Issuance, revocation or suspension

Regulations

110.20 Itinerant merchants

110.21 Liquor retailer's permits

GENERAL PROVISIONS

§ 110.01 AUTHORITY TO LICENSE.

The town has the authority to impose a license fee that is reasonably related to the administrative cost of exercising such regulating powers.

(87 Code, § 4-1)

Statutory reference:

Authorizing the regulation of business crafts, professions and occupations, see I.C. 36-8-2-10

Providing towns with licensing power, see I.C. 36-1-3-8(5)

§ 110.02 DURATION OF LICENSE, DISPLAY REQUIRED.

(A) All licenses issued under this chapter, unless specified otherwise on the license, shall be issued for the duration of the calendar year for which they were issued and shall expire on December 31.

(B) Every person who is issued a license under the provisions of the licensed activity is being conducted or if there are not premises shall carry the license while engaged in the activity for which he or she has been licensed and shall exhibit it to any town official or citizen upon request.

(`87 Code, § 4-2)

§ 110.03 ISSUANCE, REVOCATION OR SUSPENSION.

(A) The Clerk-Treasurer shall issue licenses upon payment of the license fees and compliance with the applicable provisions of this code and Town Council approval.

(B) Licenses issued by the town may be revoked or suspended if the person holding the license has violated the terms or conditions of the license or the law under which it was issued or has conducted the business in such a manner as to constitute a threat to public health, safety or general welfare of the town's citizens.

(`87 Code, § 4-3)

Statutory reference:

Addressing license revocations or suspensions by the town executive, see I.C. 36-5-4-11

Authorizing the Clerk-Treasurer to issue licenses, see I.C. 36-5-6-6(6)

REGULATIONS

§ 110.20 ITINERANT MERCHANTS.

(A) No person shall sell or take orders for any goods or services without first applying for and being issued a registration certificate.

(B) An applicant for a registration certificate shall execute an application form at the office of the Clerk-Treasurer prior to engaging in any soliciting in the town. The form shall require:

- (1) The applicant's name, home address and local address, if any;
- (2) The make, model year and license plat number of the applicant's automobile;
- (3) A photograph or a physical description of the applicant;
- (4) The name and address or principal office of the person, firm, organization or corporation for whom the applicant is authorized to conduct such activity solely on his or her own behalf;
- (5) A brief description of the type of goods or services to be sold and a statement whether delivery of such goods or services is to be immediate or in the future;
- (6) That applicant appear at the Police Department and allow himself or herself to be fingerprinted;
- (7) A sample of the order and receipt form used by applicant if the applicant canvasses or solicits orders.

(C) At the time of executing such application form, the applicant shall also submit in person for the inspection of the Chief of Police written proof of his or her identity and a specimen of the applicant's signature.

(D) If, after the issuance of the registration certificate, the information in the application shall become inaccurate for any reason and the holder of the registration certificate intends to continue his or her activity, notice of such change and the correct information shall be furnished to the office of the Clerk-Treasurer within 24 hours.

(E) The certificate issued shall be for a period of two months from the date of issuance and shall expire on the date specified in the certificate.

(F) Upon compliance of the applicant with the above provisions, the Clerk-Treasurer shall issue a registration certificate which shall be dated and signed by the Clerk-Treasurer, providing that the Clerk-Treasurer has not found applicant's previous registration certificate revoked. Each applicant shall pay the Clerk-Treasurer the sum of \$10 to defray the costs of the administration of this section.

(G) All certificates are nontransferable and entitle the holder to sell, distribute, solicit or canvass, within the town, subject to the following conditions:

(1) The holder shall have the certificate in his or her possession at all times and shall exhibit the same at any time upon request by any police officer or by any individual;

(2) The holder shall not enter into or upon any house, building or other structure without the prior consent of the owner or occupant thereof;

(3) The holder of a certificate shall make no false statements or misrepresentations of fact in the course of carrying on the activity for which the certificate is granted and shall conduct himself or herself at all times in an orderly and lawful manner;

(4) The holder of a certificate who takes orders for the future delivery of any type of goods or services shall give written receipt to the purchaser, which shall be signed by the holder and set forth a brief description of the goods or services ordered, the total purchase price and the amount of payment, if any, received by the holder from the purchaser.

(H) Any certificate issued may be revoked by the Clerk-Treasurer after notice of hearing for any fraud, misrepresentation or false statement contained in the application or for failure to correct any statement in the application or for failure to observe the conditions of the certificate.

(I) Notice after hearing for revocation of a certificate shall be in writing, stating the reason for the hearing and the time and place thereof. Notice shall be given to the holder at least three days, if by personal service, and at least five days if by mail, addressed to the holder's last known local address or, if none, his or her home address, prior to the date for the hearing.

(J) The following are exempt from the provisions of this section:

(1) Persons engaged in the sale of newspapers;

(2) Persons who have established permanent places of business within the town limits and salespersons selling at wholesale to such resident merchants;

(3) Persons representing non-profit service or civic organizations who have an office or chapter located in Hancock County.

(K) Any person found to be in violation of this section shall be fined in an amount as determined by § 10.99.

(Ord. 1995-10A, passed 11-14-95) Penalty, see § 10.99
§ 110.21 LIQUOR RETAILER'S PERMITS.

The consent of the town is given and granted unto the proper legal authorities of the state to issue liquor retailer's permits for the sale of alcoholic, spirituous beverages to applicants otherwise duly qualified to premises within the town, all pursuant to applicable state law.

('87 Code, § 4-7)

Statutory reference:

Address liquor retailer's permits for small municipalities, see I.C. 7.1-3-9-3

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

Curfew

130.01 Definitions

130.02 Prohibited activities

130.03 Exceptions

130.04 Enforcement procedure

130.99 Penalty

CURFEW

§ 130.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CURFEW HOURS. This term means:

(1) For a child 15, 16 or 17 years of age:

(a) Between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday;

(b) After 11:00 p.m. on Sunday, Monday, Tuesday,

Wednesday or Thursday; and

(c) Before 5:00 a.m. on Monday, Tuesday, Wednesday,

Thursday or Friday; and

(2) For a child under 15 years of age, after 11:00 p.m. or before 5:00

a.m. on any day.

EMERGENCY. An unforeseen combination of circumstances or the resulting state that calls for immediate action. The terms includes, but is not limited to, a fire, natural disaster, automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.

GUARDIAN. This term means:

(1) A person who, under court order, is the guardian of the person of a minor; or

(2) A public or private agency with whom a minor has been placed by a court.

MINOR. Any person under 18 years of age and is synonymous with the term JUVENILE for the purposes of this chapter.

PARENT. A person who is:

(1) A natural parent, adoptive parent or stepparent of another person;

or

(2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

PUBLIC PLACE. Any place to which the public or a substantial group of the public has access and includes but is not limited to, streets, sidewalks, highways and private residences left open to the public without the presence of adult supervision and the common areas of schools, hospitals, apartments, office buildings and transportation facilities.

REMAIN. To:

(1) Linger or stay, whether on foot or in a vehicle; or
(2) Fail to leave premises when requested to do so by a police officer or the owner, operator or person in control of the premises.

(Ord. 1998-4B, passed 5-12-98)

§ 130.02 PROHIBITED ACTIVITIES.

(A) It is a violation of this subchapter and unlawful for a child 15, 16 or 17 years of age to be in a public place:

(1) Between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday;
(2) After 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday or Thursday; and
(3) Before 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday or Friday.

(B) It is a violation of this subchapter and unlawful for a child under 15 years of age to be in a public place after 11:00 p.m. on or before 5:00 a.m. on any day.

(C) It is a violation of this subchapter and unlawful for a parent or guardian of a minor to knowingly permit, or by insufficient control allow, the minor to remain in a public place within the city during curfew hours. A parent or guardian who:

(1) Despite his or her best efforts, is unable to bring his or her minor child into compliance with this subchapter; and
(2) Notifies local law enforcement authorities of his or her unsuccessful efforts and the minor child's violation of this subchapter, is not in violation of this subchapter.

(Ord. 1998-4B, passed 5-12-98) Penalty, see § 130.99

§ 130.03 EXCEPTIONS.

(A) It is a defense to a violation under this chapter that, at the time that the child engaged in the prohibited conduct, the child was emancipated:

(1) Under I.C. 31-37-19-27 or I.C. 31-6-4-15.7 (before its repeal);
(2) By virtue of having married; or
(3) In accordance with the laws of another state or jurisdiction.

(B) It is a defense to a violation under this chapter that the child engaged in the prohibited conduct while:

(1) Accompanied by the child's parent, guardian, or custodian;
(2) Accompanied by an adult specified by the child's parent, guardian, or custodian;
(3) Participating in, going to, or returning from:
(a) Lawful employment;
(b) A school sanctioned activity;
(c) A religious event;

(d) An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;

(e) An activity involving the exercise of the child's rights protected under the First Amendment to the United States Constitution or Article 1, Section 31 of the Constitution of the State of Indiana, or both, such as freedom of speech and the right of assembly; or

(f) An activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one or more adults; or

(4) Engaged in interstate or international travel from a location outside Indiana to another location outside Indiana.

(Ord. 1998-4B, passed 5-12-98)

§ 130.04 ENFORCEMENT PROCEDURE.

(A) Before taking any enforcement action under this section, a police officer or code enforcement officer will ask the apparent offender's age and reason for being in the public place. The officer will not issue a citation or make an arrest under this section unless the officer reasonably believes that a violation of this subchapter has occurred.

(B) Pursuant to I.C. 31-37-5, whenever a law enforcement officer believes in good faith that a person has committed a violation of this subchapter, the law enforcement officer may detain that person for a time sufficient to:

(1) Inform the person of the allegation;

(2) Obtain the person's:

(a) Name, address and date of birth; or

(b) Driver's license, if in his or her possession; and

(3) Allow the person to execute a notice to appear.

(Ord. 1998-4B, passed 5-12-98)

§ 130.99 PENALTY.

(A) Whoever shall violate any provision of this chapter for which no specific penalty is provided shall be punished as set forth in § 10.99 of this code.

(B) Minors and their parent(s) and/or guardian(s) who violate any of the provisions of §§ 130.01 et seq. will be guilty of an ordinance violation and will be subject to the following sanctions:

(1) For a minor's first offense, the minor will be issued a warning from local law enforcement authorities and his or her parent(s) and/or guardian(s) will be notified of the violation;

(2) For a minor's second offense, the minor will be prosecuted for the violation, a judgment will be sought against them in the amount of \$25, plus court costs, and his or her parent(s) and/or guardian(s) will be notified of the violation;

(3) For a minor's third offense, the minor and his or her parent(s) and/or guardian(s) will be prosecuted for the violation and a judgment will be sought against each of them in the amount of \$50, plus court costs; and

(4) For a minor's fourth offense and subsequent offense(s), the minor and his or her parent(s) and/or guardian(s) will be prosecuted for the violation and a judgement will be sought against each of them in the amount of \$100, plus court costs.

(Ord. 1998-4B, passed 5-12-98)

TITLE XV: LAND USAGE

Chapter

- 150. BUILDING REGULATIONS
- 151. COMPREHENSIVE PLAN
- 152. ZONING CODE

CHAPTER 150: BUILDING REGULATIONS

Section

150.01 Adoption of regulations by reference

150.02 Unsafe buildings and premises

§ 150.01 ADOPTION OF REGULATIONS BY REFERENCE.

(A) Pursuant to I.C. 36-7-2-9 and I.C. 22-13-2-3(b), the fire safety rules and building rules, as adopted and hereafter amended by the Fire Prevention and Building Safety Commission, are adopted by reference as the rules of the town.

(B) The Hancock County Building Inspector is authorized to enforce these fire safety and building rules within the town limits, to issue permits and to charge and collect the same fee as is charged to county residents.

(Ord. 1997-6A, passed 6-10-97)

§ 150.02 UNSAFE BUILDINGS AND PREMISES.

(A) State law incorporated by reference. I.C. 36-7-9 is hereby adopted. (‘87 Code, § 6-54)

(B) Administration of division. The Department of Building Safety, as established in Ch. 32 of this code, shall be responsible for the administration of I.C. 36-7-9. (‘87 Code, § 6-55)

(C) Substantial property interest. All of the provisions of I.C. 36-7-9, including the definition of substantial property interest, are incorporated into this division by reference. (‘87 Code, § 6-56)

(Ord. 1984-7E, passed 7-24-84)

CHAPTER 151: COMPREHENSIVE PLAN

Section

151.01 Comprehensive Plan adopted by reference

§ 151.01 COMPREHENSIVE PLAN ADOPTED BY REFERENCE.

The Comprehensive Plan, copies of which are on file in the office of the Town Manager, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

CHAPTER 152: ZONING CODE

Section

152.01 Adopted by reference

§ 152.01 ADOPTED BY REFERENCE.

The Zoning Code, copies of which are on file in the office of the Town Manager, is adopted and incorporated as part of this code of ordinances as fully as if set out at length herein.

(Am. Ord. 2003-5A, passed - -02)

TABLE OF SPECIAL ORDINANCES

Table

- I. RENAMING STREETS
- II. VACATIONS
- III. ZONING CHANGES

IV. ANNEXATIONS

TABLE I: RENAMING STREETS

Ord. No.	Date Passed	Description
—	- -	The following streets are renamed:
R. 5	7-3-25	Tinker Street to South McCarty Street; East corporation line to Madison Street; Noble Street to Center Street; North Second Street to Michigan Street; North Third Street to Monroe Street; North Fourth Street to Illinois Street; North Fifth Street to Hamilton Street; South First Street to Mill Street; South Second Street to Pearl Street; South Third Street to Broadway Street; South Fourth Street to High Street; South Fifth Street to Park Street;
1949-	1-5-49	South corporation line to Garden Street.

TABLE II: VACATIONS

Ord. No.	Date Passed	Description
1992-10A	10-13-92	Vacating the following described section of a public alley: that part of the entire width of the alley that adjoins the northwest side of Lot 1 in Arnett's First Addition to the town, as per plat thereof recorded in Plat book 2, pages 73 and 74 in the office of the Recorder of Hancock County, Indiana.
1995-11A	11-28-95	Vacating part of the Central Addition to the town as per plat thereof recorded in Plat Cabinet A, Slide No. 74 in the office of the Recorder of Hancock County, which property commences at the northwest corner of Lot 1 in said Central Addition.
1999-5C	6-8-99	Vacating a north/south alley between Lots 7 and 8 in Merrill's Addition.

TABLE III: ZONING CHANGES

Ord. No.	Date Passed	Description
1989-8A	8-8-89	Rezoning the property located at 325 E. Staat St., owned by Larry Yeley from R-1 to R-3.
1992-4A	4-14-92	Rezoning a part of the northeast quarter of Section 16, Township 17 North, Range 6 East from R-1 to B-1.
1992-8A	8-11-92	Rezoning a part of the northwest quarter of the southwest quarter of Section 10, Township 17 North, Range 6 East from B-2 to I-1.
1998-7A	7-28-98	Rezoning a part of Section 9, Township 17, Range 6.
1999-3A	3-9-99	Rezoning a part of Section 10, Township 17, Range 6 from R-2 to I-1.
1999-5A	5-11-99	Rezoning property described in Exhibit A to this ordinance from R-2 to PD-R.
1999-5B	5-11-99	Rezoning property described in Exhibit A to this ordinance from R-2 to B-2.

2000-7A 7-25-00 Rezoning a part of the south half of the northeast quarter of Section 9, Township 17 North, Range 6 East from R-2 to R-4.

2001-5A 5-8-01 Rezoning Lot 107 and the west half of Lot 108 in Central Addition from R-2 to B-2.

TABLE IV: ANNEXATIONS

Ord. No.	Date Passed	Description
1987-1A	1-27-87	Annexing to the city part of the east half of the northwest quarter of Section 9, Township 17 North, Range 6 east; and a part of the southeast quarter of the northwest quarter of Section 9, Township 17 North, Range 6 East.
1987-12A	12-15-87	Annexing to the city a part of the northwest quarter of the northwest quarter of Section 15, Township 17 North, Range 6 East.
1993-4B	4-27-93	Annexing to the city a parcel of real estate commencing at the northeast corner of the west half of the northeast quarter of the southwest quarter of Section 9, Township 17 North, Range 6 East; and a part of the east half northeast quarter of the southwest quarter and a part of the southeast quarter of Section 9, Township 17 North, Range 6 East.
1993-6A	6-8-93	Annexing to the city a part of the southeast quarter of the southwest quarter of Section 9, Township 17 North, Range 6 East; and the south part of the east half of the northeast quarter of the southwest quarter of Section 9, Township 17 North, Range 6 East.
1993-6B	6-22-93	Annexing to the city the following tracts of land in the north half of Section 10, Township 17 North, Range 6 East: Tract I being Colonial Village Subdivision, Tract II being all that part of the right-of-way of Indiana State Highway No. 67 which is situated between the west right-of-way line of Madison Street and the east line of the above referenced Colonial Village Subdivision extended northerly along the east line of the northwest quarter of Section 10, Township 17 North, Range 6 East, containing 4.9 acres, more or less; and Tract III, all that part of the right-of-way of Hancock County Road 1050 North which is situated between the west right-of-way line of Madison Street and the southeast corner of the west half of the northeast quarter of Section 10, Township 17 North, Range 6 East, containing 1.7 acres, more or less.
1994-10C	11-8-94	Annexing to the city a part of the west half of the northeast quarter of the southwest quarter of Section 10, Township 17 North, Range 6 East.
1994-12A	12-13-94	Annexing to the city a part of the north half of the northeast quarter of Section 9, Township 17 North, Range 6 East.
1995-8B	8-8-95	Annexing to the city a part of Section 10, Township 17 North, Range 6 East.
1996-4C	4-23-96	Annexing to the city the following tracts of land: a part of the southeast quarter of the northwest quarter of Section 9, Township 17 North, Range 6 East; a part of the southwest quarter of Section 10, Township 17 North, Range 6 East; 215 feet of uniform width off of the entire north side of a parcel of land lying in the southwest quarter of Section 10, Township 17 North, Range 6 East; Lot 1 in Sizemore Minor Subdivision; a parcel beginning at a point on the north line of the northwest quarter of the southwest quarter of Section 10, Township 17 North, Range 6 East; and Miller's Minor Subdivision.

1996-4D 4-23-96 Annexing to the city a part of the east half of the northwest quarter of the southwest quarter of Section 10, Township 17 North, Range 6 East.

1998-1B 2-24-98 Annexing to the city the following tracts of land: a part of the east half of the northwest quarter of Section 9, Township 17 North, Range 6 East; land commencing at the point of intersection of the south line of the west half of the northwest quarter of Section 10, Township 17 North, Range 6 East and the northerly right-of-way line of State Road No. 67; a part of the northwest quarter of Section 10, Township 17 North, Range 6 East; land commencing at the point of intersection of the south line of the west half of the northwest quarter of Section 10, Township 17 North, Range 6 East; a part of the northwest quarter of Section 10, Township 17 North, Range 6 East; part of the north middle division of the northwest quarter of the southwest quarter of Section 10, Township 17 North, Range 6 East; a north middle division of the northwest quarter of the southwest quarter of Section 10, Township 17 North, Range 6 East; a parcel of land lying in the southwest quarter of Section 10, Township 17 North, Range 6 East; a strip of land formerly used as a right-of-way for an interurban electric railroad situated in the northwest quarter of Section 10, Township 17 North, Range 6 East; land commencing at the point of intersection of the south line of the west half of the northwest quarter of Section 10, Township 17 North, Range 6 East and the northerly right-of-way line of State Road No. 67; and a part of the northeast quarter of the northwest quarter of Section 16, Township 17 North, Range 6 East.

1999-6A 6-22-99 Annexing to the city part of the southwest quarter of Section 9, Township 17 North, Range 6 East, containing 37.628 acres, more or less.

2000-11A 12-12-00 Annexing to the city the southwest quarter of the southwest quarter of Section 10, Township 17 North, Range 6 East, containing 40 acres, more or less, with exceptions.

2001-9A 10-30-01 Annexing to the city land beginning at the southeast corner of the northeast quarter of the northwest quarter of Section 16, Township 17 North, Range 6 East, containing 31.28 acres, more or less.

2001-9B 10-30-01 Annexing to the city a part of the southwest quarter of the southwest quarter of Section 10, Township 17 North, Range 6 East; and land beginning at a point on the south line of the southwest quarter of Section 10, Township 17 North, Range 6 East, containing 2.125 acres, more or less.

2001-9C 10-30-01 Annexing to the city land beginning at a point 15 feet north and 360 feet east of the northwest corner of Lot 7 in Central Addition to the town.

2003-5A 6-10-03 Annexing to the city certain real estate containing 76.42 acres more or less generally known as the Robert M. Manker property.

PARALLEL REFERENCES

References to Indiana Code

References to 1987 Code of Ordinances

References to Resolutions

References to Ordinances

REFERENCES TO INDIANA CODE

I.C. Section Code Section

1-1-1-510.04

1-1-1-710.12
1-1-1-810.06
1-1-4-510.05
1-1-5-110.11
1-1-6-110.08
4-22-2 90.09
5-4-1-18 31.03
6-7-1-30.1 34.20
6-7-1-31.1 34.20
7.1-3-9-3 110.21
8-1.5-3-4 51.05
8-3-1-170.18
8-6-1-170.18
9-3-1-334.22
9-21-1-1 et seq. 70.01
9-21-16-5 71.01
9-29-11-1 34.22
15-2.1-6-11 93.03, 93.05
15-5-9-1 et seq. 93.02
22-9.5-1 et seq. 90.01
22-9.5-2-2 90.02
22-9.5-2-3 90.02
22-9.5-2-4 90.02
22-9.5-2-9 90.02
22-9.5-2-10 90.02
22-9.5-2-10(b) 90.02
22-9.5-2-11 90.02
22-9.5-2-13 90.02
22-9.5-3 90.03
22-9.5-3 et seq. 90.09
22-9.5-4 et seq. 90.02
22-9.5-4-8 90.10
22-9.5-5-1 90.03
22-9.5-6 90.02, 90.10
22-13-2-3(b) 150.01
22-905-2-10(c) 90.02
31-6-4-15.7 130.03
31-37-5 130.04
31-37-19-27 130.03
35-47-2-3 34.23
36-1-3-1 - 36-1-3-9 30.06
36-1-3-8 52.130
6-1-3-8(5) 110.01
36-1-3-8(a)(10) 10.99
36-1-7-1 - 36-1-7-12 34.03
36-4-6-14 30.09

36-5-1-10.1	30.02
36-5-2-2	30.04
36-5-2-4.1	30.02
36-5-2-5	30.02
36-5-2-7	30.04
36-5-2-8	31.21
36-5-2-9	30.06
36-5-2-9.2	30.05
36-5-2-9.4 - 36-5-2-9.8	30.05
36-5-3-2	30.10, 31.02, 31.22, 33.01
36-5-4-11	110.03
36-5-5-1 - 36-5-5-8	31.01
36-5-6-2	31.21
36-5-6-3	31.20
36-5-6-5	31.21
36-5-6-6	31.21
36-5-6-6(6)	110.03
36-5-6-7	31.23
36-5-7-2	33.01
36-5-7-3	33.01
36-5-7-4	33.01
36-5-7-6	33.01
36-7-2-9	150.01
36-7-9	32.03, 150.02
36-7-10.1-4	92.03
36-8-2-8	92.02
36-8-2-10	110.01
36-8-3-20	33.02
36-9-2-14	50.02
36-9-2-15	50.01
36-9-2-16	50.03, 50.04
36-9-2-17	50.03
36-10-2-2	91.01
36-10-3	32.04, 91.02

REFERENCES TO 1987 CODE OF ORDINANCES

1987 Code Section	2003 Code Section
Ch. 2, Art. I	33.22
2-1	31.20
Ch. 2, Art. II	33.23
2-2	31.21
Ch. 2, Art. III	33.24
2-3	31.22
2-4	31.23
Ch. 2, Art. IV	33.25
Ch. 2, Art. V	33.26
Ch. 2, Art. VI	33.27

Ch. 2, Art. VII33.28

2-7	33.01
2-8	33.01
2-9	33.01
2-12	33.02
2-13	33.02
2-19	33.20
2-20	33.21
2-24	31.01
2-25	31.02
2-26	31.03
2-37	33.03
2-39	33.03
2-40	33.03
2-45	32.01
2-50	32.02
2-51	32.03
2-52	32.04
2-56	34.20
2-57	34.21
2-58	34.22
2-59	34.23
2-60	34.24
2-61	34.25
2-69	34.03
2-70	34.03
3-4	30.04
3-5	30.05
3-6	30.06
3-10	30.07
3-11	30.08
3-12	30.09
3-13	30.10
4-1	110.01
4-2	110.02
4-3	110.03
4-7	110.21
5-1	91.01
5-5	91.02
5-6	91.02
5-12	91.03
5-13	91.04
6-1	93.20
6-2	93.21
6-3	93.22
6-15	93.23

6-16	93.23
6-17	93.23
6-27	92.01
6-41	50.04
6-48	92.02
6-49	92.02
6-54	150.02
6-55	150.02
6-56	150.02
7-10	94.15
7-11	94.16
7-12	94.17
7-17	94.30
7-18	94.31
7-22	94.01
7-25	94.45
7-26	94.46
7-27	94.47
7-28	94.48
7-29	94.49
7-30	94.50
8-1	70.01
8-6	Ch. 73, Sch. II
8-7	Ch. 73, Sch. III
8-10	71.01
8-11	71.02
8-14	Ch. 73, Sch. V
8-17	71.04
8-26	Ch. 72, Sch. I
8-36	70.15
8-37	70.15
8-39	Ch. 72, Sch. II
8-44	70.18
8-45	70.18
8-57	70.16
9-1	50.01
9-2	50.02
9-3	50.03
9-49	51.01
9-50	51.02
9-51	51.03
9-61	51.04
9-62	51.05

REFERENCES TO RESOLUTIONS

Res. No.	Date Passed	Code Section
5	7-3-25	T.S.O. I

2001-3B	- -01	30.11
2001-7 7-24-01		34.26
2001-11A	12-11-01	33.04
2001-11B	11-13-01	31.04
2001-12B	12-20-01	95.23

REFERENCES TO ORDINANCES

Ord. No.	Date Passed	Code Section
- - -	T.S.O. I	
3-1925 8-11-25		70.15
10-1930	10-17-30	94.30, 94.31
1-1936 7-1-36		94.17
1949- 1-5-49	T.S.O. I	
- 11-1-50		50.04
1952- 8-19-52		70.16
1953- 7-14-53		94.01
- 4-4-61		92.02
1963- 3-12-63	Ch. 72, Sch. II, Ch. 73, Sch. II, Ch. 73, Sch. III	
1964- 7-7-64	Ch. 73, Sch. V	
1965-6A	6-22-65	70.18
1966- 7-26-66		70.18
1968-10A	10-22-68	51.03
1969-7A	7-8-69	Ch. 72, Sch. II
1971-9A	9-28-71	33.20
1971-11A	11-9-71	Ch. 73, Sch. V
1976-1A	1-27-76	33.02
1976-6D	6-22-76	91.03, 91.04
1977-7A	7-12-77	70.15
1977-9A	9-13-77	71.04
1977-11A	11-8-77	94.15, 94.16
1978-5C	5-23-78	71.01, 71.02
1978-8A	8-8-78	94.45, 94.47 - 94.50
1979-2D	2-27-79	93.23
1979-4A	4-10-79	94.45 - 94.48
1980-6B	6-18-80	51.01, 51.02
1983-6B	6-28-83	Ch. 72, Sch. I
1984-4A	4-10-84	93.20 - 93.22
1984-6A	6-12-84	32.02, 32.04, 91.02
1984-7E	7-24-84	32.02, 32.03, 150.02
1984-11A	11-13-84	92.01
1985-6A	6-11-85	33.03
1987-1A	1-27-87	T.S.O. IV
1987-12A	12-15-87	T.S.O. IV
1989-3A	3-28-89	Ch. 72, Sch. III
1989-8A	8-8-89	T.S.O. III
1992-4A	4-14-92	T.S.O. III
1992-5A	5-12-92	92.03

1992-8A	8-11-92	T.S.O. III
1992-10A	10-13-92	T.S.O. II
1992-12B	12-22-92	30.01 - 30.03
1993-1B	1-12-93	33.29
1993-1C	2-9-93	71.03 - 71.05, 91.03, 91.05 - 91.08, 92.01
1993-4A	4-13-93	31.05
1993-4B	4-27-93	T.S.O. IV
1993-6A	6-8-93	T.S.O. IV
1993-6B	6-22-93	T.S.O. IV
1993-8A	8-10-93	51.02
1993-9A	9-14-93	Ch. 72, Sch. I
1994-4A	4-26-94	30.02
1994-5A	5-10-94	Ch. 72, Sch. II
1994-9A	9-13-94	90.01 - 90.10
1994-10C	11-8-94	T.S.O. IV
1994-12A	12-13-94	T.S.O. IV
1995-8B	8-8-95	T.S.O. IV
1995-10A	11-14-95	110.20
1995-11A	11-28-95	T.S.O. II
1996-4C	4-23-96	T.S.O. IV
1996-4D	4-23-96	T.S.O. IV
1997-6A	6-10-97	150.01
1997-7A	7-15-97	93.01 - 93.05, 93.35 - 93.37
1998-1B	2-24-98	T.S.O. IV
1998-4B	5-12-98	130.01 - 130.04, 130.99
1998-4C	5-12-98	35.01
1998-5B	6-9-98	70.17
1998-6A	6-23-98	34.01
1998-7A	7-28-98	T.S.O. III
1998-9A	10-13-98	30.01
1999-3A	3-9-99	T.S.O. III
1999-5A	5-11-99	T.S.O. III
1999-5B	5-11-99	T.S.O. III
1999-5C	6-8-99	T.S.O. II
1999-6A	6-22-99	T.S.O. IV
1999-6B	6-22-99	33.01
2000-1A	1-25-00	33.01
2000-4A	4-25-00	Ch. 72, Sch. IV
2000-4C	4-25-00	35.01
2000-7A	7-25-00	T.S.O. III
2000-9A	- -00	Ch. 73, Sch. I, Ch. 73, Sch. IV
2000-10A	10-10-00	35.01
2000-10B	- -00	Ch. 72, Sch. I
2000-11A	12-12-00	T.S.O. IV

2000-11B 11-28-00 52.001 - 52.007, 52.020 - 52.025, 52.035 - 52.038,
52.050 - 52.055, 52.065 - 52.072, 52.085 - 52.097, 52.110 - 52.113, 52.125 - 52.140,
52.999

2000-12B 12-28-00 31.04

2001-5A 5-8-01 T.S.O. III

2001-7A - -01 Ch. 72, Sch. I

2001-9A 10-30-01 T.S.O. IV

2001-9B 10-30-01 T.S.O. IV

2001-9C 10-30-01 T.S.O. IV

2001-12B 12-20-01 94.02

2001- - -02 50.05

2002-4A 4-23-02 50.06

2003-5A - -02 152.01

2002-5A 5-28-02 92.15 - 92.28, 92.99

2002-6A 7-24-02 Ch. 72, Sch. I

2002-6B 6-11-02 Ch. 72, Sch. IV

2002-6C 6-25-02 92.03

2002-7A 9-24-02 95.01 - 95.22, 95.99

2002-8A - -02 34.27

2002-10A 10-22-02 32.05

2002-12C 1-14-03 Ch. 73, Sch. I, Ch. 73, Sch. IV

2003-5A 6-10-03 T.S.O. IV